Volume 1

STATUTES OF CALIFORNIA
AND DIGESTS OF MEASURES

2002

Constitution of 1879 as Amended

Measures Submitted to Vote of Electors,
Primary Election, March 5, 2002
and General Election, November 5, 2002

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

2001–02 Regular Session
2001–02 Second Extraordinary Session
2001–02 Third Extraordinary Session

Compiled by
DIANE F. BOYER-VINE
Legislative Counsel
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EFFECTIVE DATES

Regular Session


The effective date of a joint or concurrent resolution is the date it is filed with the Secretary of State.

An initiative statute or referendum or a constitutional amendment proposed by the Legislature and adopted by the people takes effect the day after the election unless the measure provides otherwise.

Statutes Which Take Effect Immediately. An urgency statute, and a statute calling an election, providing for a tax levy, or making an appropriation for the usual current expenses of the state may take effect immediately. Such a statute becomes effective on the date it is filed with the Secretary of State.

Operative Date. The provisions of a statute normally become operative on the date it takes effect. However, any statute may, by its own terms, delay the operation of its provisions until the happening of some contingency or until a specified time. Also, a later statute or a general provision in a particular code may delay the operation of a statute to a time after its effective date.

Extraordinary Sessions

An urgency statute enacted at a special session of the Legislature takes effect immediately, as outlined above, and the same rules apply with respect to a delayed operative date. A nonurgency statute takes effect on the 91st day after adjournment of the special session at which the bill was passed. The effective date of a concurrent resolution is the date it is filed with the Secretary of State.

The 2001–02 Second Extraordinary Session reconvened on January 7, 2002, and adjourned sine die on May 9, 2002. The 91st day after adjournment is August 8, 2002. Please refer to the preceding year’s Statutes and Amendments to the Codes for statutes enacted prior to the reconvening date.

# CONSTITUTIONAL AMENDMENTS

**Adopted Since Publication of Statutes of 2001**

**NOTE:** Since the publication of the Statutes of 2001, the following changes were adopted at the Primary Election, March 2, 2002, and the General Election, November 5, 2002:

<table>
<thead>
<tr>
<th>Article</th>
<th>Section</th>
<th>Change</th>
<th>Constitutional amendment number</th>
<th>Year</th>
<th>Resolution chapter number</th>
<th>Proposition number</th>
<th>Subject</th>
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<tr>
<td>II</td>
<td>2.5</td>
<td>Addition</td>
<td>ACA 9</td>
<td>2001</td>
<td>114</td>
<td>43</td>
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<td>VI</td>
<td>1</td>
<td>Amendment</td>
<td>ACA 15</td>
<td>2002</td>
<td>88</td>
<td>48</td>
<td>Court Consolidation.</td>
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<td>5</td>
<td>Repeal</td>
<td>ACA 15</td>
<td>2002</td>
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<td>Court Consolidation.</td>
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<td>Amendment</td>
<td>ACA 15</td>
<td>2002</td>
<td>88</td>
<td>48</td>
<td>Court Consolidation.</td>
</tr>
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</table>
PROPOSED CHANGES IN CONSTITUTION

NOTE: The following proposed changes were defeated at the Primary Election, March 5, 2002:

<table>
<thead>
<tr>
<th>Article</th>
<th>Section</th>
<th>Proposed Change</th>
<th>Constitutional amendment number</th>
<th>Year</th>
<th>Resolution chapter number</th>
<th>Proposition number</th>
<th>Subject</th>
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</thead>
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<tr>
<td>II</td>
<td>21</td>
<td>Addition</td>
<td>Initiative Measure</td>
<td>2002</td>
<td>—</td>
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<td>Legislative Term Limits. Local Voter Petitions.</td>
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<tr>
<td>22</td>
<td>Addition</td>
<td>Initiative Measure</td>
<td></td>
<td>2002</td>
<td>—</td>
<td>45</td>
<td>Legislative Term Limits. Local Voter Petitions.</td>
</tr>
</tbody>
</table>
CONSTITUTION OF THE STATE OF CALIFORNIA*

AS AMENDED AND IN FORCE NOVEMBER 5, 2002

PREAMBLE

We, the People of the State of California, grateful to Almighty God for our freedom, in order to secure and perpetuate its blessings, do establish this Constitution.

ARTICLE I

DECLARATION OF RIGHTS

Section 1. [Repealed November 5, 1974. See Section 1, below.]

[Inalienable Rights]

Section 1. All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy. [New section adopted November 5, 1974.]

[Liberty of Speech and of the Press—Newspersons’ Refusal to Disclose Information Sources Not Adjudged in Contempt]

Sec. 2. (a) Every person may freely speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of this right. A law may not restrain or abridge liberty of speech or press.

(b) A publisher, editor, reporter, or other person connected with or employed upon a newspaper, magazine, or other periodical publication, or by a press association or wire service, or any person who has been so connected or employed, shall not be adjudged in contempt by a judicial, legislative, or administrative body, or any other body having the power to issue subpoenas, for refusing to disclose the source of any information procured while so connected or employed for publication in a newspaper, magazine or other periodical publication, or for refusing to disclose any unpublished information obtained or prepared in gathering, receiving or processing of information for communication to the public.

Nor shall a radio or television news reporter or other person connected with or employed by a radio or television station, or any person who has been so connected or employed, be so adjudged in contempt for refusing to disclose the source of any information procured while so connected or employed for news or news commentary purposes on radio or television, or for refusing to disclose any unpublished information obtained or prepared in gathering, receiving or processing of information for communication to the public.

* Adopted by the people on May 7, 1879. Certain spelling and capitalization variances reflect State Printer’s style in effect at time of adoption of amendments.
As used in this subdivision, “unpublished information” includes information not disseminated to the public by the person from whom disclosure is sought, whether or not related information has been disseminated and includes, but is not limited to, all notes, outtakes, photographs, tapes or other data of whatever sort not itself disseminated to the public through a medium of communication, whether or not published information based upon or related to such material has been disseminated. [As amended June 3, 1980.]

[Right to Assemble and to Petition]

SEC. 3. The people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good. [New section adopted November 5, 1974.]

SEC. 4. [Repealed November 5, 1974. See Section 4, below.]

[Liberty of Conscience]

SEC. 4. Free exercise and enjoyment of religion without discrimination or preference are guaranteed. This liberty of conscience does not excuse acts that are licentious or inconsistent with the peace or safety of the State. The Legislature shall make no law respecting an establishment of religion.

A person is not incompetent to be a witness or juror because of his or her opinions on religious beliefs. [New section adopted November 5, 1974.]

SEC. 5. [Repealed November 5, 1974. See Section 5, below.]

[The Military]

SEC. 5. The military is subordinate to civil power. A standing army may not be maintained in peacetime. Soldiers may not be quartered in any house in wartime except as prescribed by law, or in peacetime without the owner’s consent. [New section adopted November 5, 1974.]

SEC. 6. [Repealed November 5, 1974. See Section 6, below.]

[Slavery Prohibited]

SEC. 6. Slavery is prohibited. Involuntary servitude is prohibited except to punish crime. [New section adopted November 5, 1974.]

[Due Process of Law—Use of Pupil School Assignment or Pupil Transportation]

SEC. 7. (a) A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws; provided, that nothing contained herein or elsewhere in this Constitution imposes upon the State of California or any public entity, board, or official any obligations or responsibilities which exceed those imposed by the Equal Protection Clause of the 14th Amendment to the United States Constitution with respect to the use of pupil school assignment or pupil trans-
portation. In enforcing this subdivision or any other provision of this Constitution, no court of this State may impose upon the State of California or any public entity, board, or official any obligation or responsibility with respect to the use of pupil school assignment or pupil transportation, (1) except to remedy a specific violation by such party that would also constitute a violation of the Equal Protection Clause of the 14th Amendment to the United States Constitution, and (2) unless a federal court would be permitted under federal decisional law to impose that obligation or responsibility upon such party to remedy the specific violation of the Equal Protection Clause of the 14th Amendment of the United States Constitution.

Except as may be precluded by the Constitution of the United States, every existing judgment, decree, writ, or other order of a court of this State, whenever rendered, which includes provisions regarding pupil school assignment or pupil transportation, or which requires a plan including any such provisions shall, upon application to a court having jurisdiction by any interested person, be modified to conform to the provisions of this subdivision as amended, as applied to the facts which exist at the time of such modification.

In all actions or proceedings arising under or seeking application of the amendments to this subdivision proposed by the Legislature at its 1979–80 Regular Session, all courts, wherein such actions or proceedings are or may hereafter be pending, shall give such actions or proceedings first precedence over all other civil actions therein.

Nothing herein shall prohibit the governing board of a school district from voluntarily continuing or commencing a school integration plan after the effective date of this subdivision as amended.

In amending this subdivision, the Legislature and people of the State of California find and declare that this amendment is necessary to serve compelling public interests, including those of making the most effective use of the limited financial resources now and prospectively available to support public education, maximizing the educational opportunities and protecting the health and safety of all public school pupils, enhancing the ability of parents to participate in the educational process, preserving harmony and tranquility in this State and its public schools, preventing the waste of scarce fuel resources, and protecting the environment.

[Privileges and Immunities]

(b) A citizen or class of citizens may not be granted privileges or immunities not granted on the same terms to all citizens. Privileges or immunities granted by the Legislature may be altered or revoked. [As amended November 6, 1979.]
[Sex, Race, Etc., Not a Disqualification for Business]

SEC. 8. A person may not be disqualified from entering or pursuing a business, profession, vocation, or employment because of sex, race, creed, color, or national or ethnic origin. [Former Section 18 of Article XX, as re-numbered and amended November 5, 1974.]

SEC. 9. [Repealed November 5, 1974. See Section 9, below.]

[Bill of Attainder—Ex Post Facto Law—Obligation of Contract]

SEC. 9. A bill of attainder, ex post facto law, or law impairing the obligation of contracts may not be passed. [New section adopted November 5, 1974.]

SEC. 10. [Repealed November 5, 1974. See Section 10, below.]

[Detention of Witnesses—No Imprisonment for Debt]

SEC. 10. Witnesses may not be unreasonably detained. A person may not be imprisoned in a civil action for debt or tort, or in peacetime for a militia fine. [New section adopted November 5, 1974.]

SEC. 11. [Repealed November 5, 1974. See Section 11, below.]

[Suspension of Habeas Corpus]

SEC. 11. Habeas corpus may not be suspended unless required by public safety in cases of rebellion or invasion. [New section adopted November 5, 1974.]

[Bail—Release on Own Recognizance]

SEC. 12. A person shall be released on bail by sufficient sureties, except for:

(a) Capital crimes when the facts are evident or the presumption great;

(b) Felony offenses involving acts of violence on another person, or felony sexual assault offenses on another person, when the facts are evident or the presumption great and the court finds based upon clear and convincing evidence that there is a substantial likelihood the person’s release would result in great bodily harm to others; or

(c) Felony offenses when the facts are evident or the presumption great and the court finds based on clear and convincing evidence that the person has threatened another with great bodily harm and that there is a substantial likelihood that the person would carry out the threat if released.

Excessive bail may not be required. In fixing the amount of bail, the court shall take into consideration the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at the trial or hearing of the case.

A person may be released on his or her own recognizance in the court’s discretion. [As amended November 8, 1994.]
SEC. 13. [Repealed November 5, 1974. See Section 13, below.]

[Unreasonable Seizure and Search—Warrant]

SEC. 13. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches may not be violated; and a warrant may not issue except on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized. [New section adopted November 5, 1974.]

SEC. 14. [Repealed November 5, 1974. See Section 14, below.]

[Felony Defendant Before Magistrate—Prosecutions]

SEC. 14. Felonies shall be prosecuted as provided by law, either by indictment or, after examination and commitment by a magistrate, by information.

A person charged with a felony by complaint subscribed under penalty of perjury and on file in a court in the county where the felony is triable shall be taken without unnecessary delay before a magistrate of that court. The magistrate shall immediately give the defendant a copy of the complaint, inform the defendant of the defendant’s right to counsel, allow the defendant a reasonable time to send for counsel, and on the defendant’s request read the complaint to the defendant. On the defendant’s request the magistrate shall require a peace officer to transmit within the county where the court is located a message to counsel named by defendant.

A person unable to understand English who is charged with a crime has a right to an interpreter throughout the proceedings. [New section adopted November 5, 1974.]

[Felony—Prosecution by Indictment]

SEC. 14.1. If a felony is prosecuted by indictment, there shall be no postindictment preliminary hearing. [New section adopted June 5, 1990. Initiative measure.]

SEC. 14 1⁄2. [Repealed November 5, 1974.]

SEC. 15. [Repealed November 5, 1974. See Section 15, below.]

[Criminal Prosecutions—Rights of Defendant—Due Process of Law—Jeopardy—Depositions—Assistance of Counsel]

SEC. 15. The defendant in a criminal cause has the right to a speedy public trial, to compel attendance of witnesses in the defendant’s behalf, to have the assistance of counsel for the defendant’s defense, to be personally present with counsel, and to be confronted with the witnesses against the defendant. The Legislature may provide for the deposition of a witness in the presence of the defendant and the defendant’s counsel.
Persons may not twice be put in jeopardy for the same offense, be compelled in a criminal cause to be a witness against themselves, or be deprived of life, liberty, or property without due process of law. [New section adopted November 5, 1974.]

[Trial by Jury]

Sec. 16. Trial by jury is an inviolate right and shall be secured to all, but in a civil cause three-fourths of the jury may render a verdict. A jury may be waived in a criminal cause by the consent of both parties expressed in open court by the defendant and the defendant’s counsel. In a civil cause a jury may be waived by the consent of the parties expressed as prescribed by statute.

[Number of Jurors in Civil Trials]

In civil causes the jury shall consist of 12 persons or a lesser number agreed on by the parties in open court. In civil causes other than causes within the appellate jurisdiction of the court of appeal the Legislature may provide that the jury shall consist of eight persons or a lesser number agreed on by the parties in open court.

[Number of Jurors in Criminal Trials]

In criminal actions in which a felony is charged, the jury shall consist of 12 persons. In criminal actions in which a misdemeanor is charged, the jury shall consist of 12 persons or a lesser number agreed on by the parties in open court. [As amended June 2, 1998.]

Sec. 17. [Repealed November 5, 1974. See Section 17, below.]

[Unusual Punishment—Excessive Fines]

Sec. 17. Cruel or unusual punishment may not be inflicted or excessive fines imposed. [New section adopted November 5, 1974.]

Sec. 18. [Repealed November 5, 1974. See Section 18, below.]

[Treason]

Sec. 18. Treason against the State consists only in levying war against it, adhering to its enemies, or giving them aid and comfort. A person may not be convicted of treason except on the evidence of two witnesses to the same overt act or by confession in open court. [New section adopted November 5, 1974.]

Sec. 19. [Repealed November 5, 1974. See Section 19, below.]

[Eminent Domain]

Sec. 19. Private property may be taken or damaged for public use only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. The Legislature may provide
for possession by the condemnor following commencement of eminent
domain proceedings upon deposit in court and prompt release to the owner
of money determined by the court to be the probable amount of just com-
pen-sation. [New section adopted November 5, 1974.]

SEC. 20. [Repealed November 5, 1974. See Section 20, below.]

[Rights of Noncitizens]

SEC. 20. Noncitizens have the same property rights as citizens. [New
section adopted November 5, 1974.]

SEC. 21. [Repealed November 5, 1974. See Section 21, below.]

[Separate Property of Husband and Wife]

SEC. 21. Property owned before marriage or acquired during marriage
by gift, will, or inheritance is separate property. [Former Section 8 of Ar-
ticle XX, as renumbered November 5, 1974.]

SEC. 22. [Repealed November 5, 1974. See Section 22, below.]

[No Property Qualification for Electors]

SEC. 22. The right to vote or hold office may not be conditioned by a
property qualification. [New section adopted November 5, 1974.]

SEC. 23. [Repealed November 5, 1974. See Section 23, below.]

[Grand Juries]

SEC. 23. One or more grand juries shall be drawn and summoned at
least once a year in each county. [New section adopted November 5, 1974.]

[Constitutional Rights—Rights Reserved]

SEC. 24. Rights guaranteed by this Constitution are not dependent on
those guaranteed by the United States Constitution.

In criminal cases the rights of a defendant to equal protection of the
laws, to due process of law, to the assistance of counsel, to be personally
present with counsel, to a speedy and public trial, to compel the attendance
of witnesses, to confront the witnesses against him or her, to be free from
unreasonable searches and seizures, to privacy, to not be compelled to be
a witness against himself or herself, to not be placed twice in jeopardy for
the same offense, and to not suffer the imposition of cruel or unusual pun-
ishment, shall be construed by the courts of this State in a manner con-
sistent with the Constitution of the United States. This Constitution shall
not be construed by the courts to afford greater rights to criminal defend-
ants than those afforded by the Constitution of the United States, nor
shall it be construed to afford greater rights to minors in juvenile proceed-
ings on criminal causes than those afforded by the Constitution of the
United States.
This declaration of rights may not be construed to impair or deny others retained by the people. [As amended June 5, 1990. Initiative measure.]

[Right to Fish]

Section 25. The people shall have the right to fish upon and from the public lands of the State and in the waters thereof, excepting upon lands set aside for fish hatcheries, and no land owned by the State shall ever be sold or transferred without reserving in the people the absolute right to fish thereupon; and no law shall ever be passed making it a crime for the people to enter upon the public lands within this State for the purpose of fishing in any water containing fish that have been planted therein by the State; provided, that the Legislature may by statute, provide for the season when and the conditions under which the different species of fish may be taken. [New section adopted November 8, 1910.]

Sec. 26. [Renumbered Section 1 of Article II June 8, 1976. See Section 26, below.]

[Constitution Mandatory and Prohibitory]

Sec. 26. The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise. [Former Section 28, as renumbered June 8, 1976.]

Sec. 26a. [Repealed November 8, 1949.]

[Death Penalty]

Sec. 27. All statutes of this State in effect on February 17, 1972, requiring, authorizing, imposing, or relating to the death penalty are in full force and effect, subject to legislative amendment or repeal by statute, initiative, or referendum.

The death penalty provided for under those statutes shall not be deemed to be, or to constitute, the infliction of cruel or unusual punishments within the meaning of Article 1, Section 6 nor shall such punishment for such offenses be deemed to contravene any other provision of this constitution. [New section adopted November 7, 1972. Initiative measure.]

["The Victims' Bill of Rights"]

Sec. 28. (a) The People of the State of California find and declare that the enactment of comprehensive provisions and laws ensuring a bill of rights for victims of crime, including safeguards in the criminal justice system to fully protect those rights, is a matter of grave statewide concern.

The rights of victims pervade the criminal justice system, encompassing not only the right to restitution from the wrongdoers for financial losses suffered as a result of criminal acts, but also the more basic expectation that persons who commit felonious acts causing injury to innocent victims
will be appropriately detained in custody, tried by the courts, and sufficiently punished so that the public safety is protected and encouraged as a goal of highest importance.

Such public safety extends to public primary, elementary, junior high, and senior high school campuses, where students and staff have the right to be safe and secure in their persons.

To accomplish these goals, broad reforms in the procedural treatment of accused persons and the disposition and sentencing of convicted persons are necessary and proper as deterrents to criminal behavior and to serious disruption of people’s lives.

(b) Restitution. It is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to restitution from the persons convicted of the crimes for losses they suffer.

Restitution shall be ordered from the convicted persons in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss, unless compelling and extraordinary reasons exist to the contrary. The Legislature shall adopt provisions to implement this section during the calendar year following adoption of this section.

(c) Right to Safe Schools. All students and staff of public primary, elementary, junior high and senior high schools have the inalienable right to attend campuses which are safe, secure and peaceful.

(d) Right to Truth-in-Evidence. Except as provided by statute hereafter enacted by a two-thirds vote of the membership in each house of the Legislature, relevant evidence shall not be excluded in any criminal proceeding, including pretrial and post conviction motions and hearings, or in any trial or hearing of a juvenile for a criminal offense, whether heard in juvenile or adult court. Nothing in this section shall affect any existing statutory rule of evidence relating to privilege or hearsay, or Evidence Code, Sections 352, 782 or 1103. Nothing in this section shall affect any existing statutory or constitutional right of the press.

(e) Public Safety Bail. A person may be released on bail by sufficient sureties, except for capital crimes when the facts are evident or the presumption great. Excessive bail may not be required. In setting, reducing or denying bail, the judge or magistrate shall take into consideration the protection of the public, the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at the trial or hearing of the case. Public safety shall be the primary consideration.

A person may be released on his or her own recognizance in the court’s discretion, subject to the same factors considered in setting bail. However, no person charged with the commission of any serious felony shall be released on his or her own recognizance.
Before any person arrested for a serious felony may be released on bail, a hearing may be held before the magistrate or judge, and the prosecuting attorney shall be given notice and reasonable opportunity to be heard on the matter.

When a judge or magistrate grants or denies bail or release on a person’s own recognizance, the reasons for that decision shall be stated in the record and included in the court’s minutes.

(f) Use of Prior Convictions. Any prior felony conviction of any person in any criminal proceeding, whether adult or juvenile, shall subsequently be used without limitation for purposes of impeachment or enhancement of sentence in any criminal proceeding. When a prior felony conviction is an element of any felony offense, it shall be proven to the trier of fact in open court.

(g) As used in this article, the term “serious felony” is any crime defined in Penal Code, Section 1192.7(c). [New section adopted June 8, 1982. Initiative measure.]

[Criminal Cases—Due Process of Law—Speedy and Public Trial]

Sec. 29. In a criminal case, the people of the State of California have the right to due process of law and to a speedy and public trial. [New section adopted June 5, 1990. Initiative measure.]

[Criminal Cases—Jointure-Hearsay Evidence—Discovery]

Sec. 30. (a) This Constitution shall not be construed by the courts to prohibit the joining of criminal cases as prescribed by the Legislature or by the people through the initiative process.

(b) In order to protect victims and witnesses in criminal cases, hearsay evidence shall be admissible at preliminary hearings, as prescribed by the Legislature or by the people through the initiative process.

(c) In order to provide for fair and speedy trials, discovery in criminal cases shall be reciprocal in nature, as prescribed by the Legislature or by the people through the initiative process. [New section adopted June 5, 1990. Initiative measure.]

[Prohibition Against Discrimination or Preferential Treatment]

Sec. 31. (a) The State shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

(b) This section shall apply only to action taken after the section’s effective date.

(c) Nothing in this section shall be interpreted as prohibiting bona fide qualifications based on sex which are reasonably necessary to the normal operation of public employment, public education, or public contracting.
(d) Nothing in this section shall be interpreted as invalidating any court order or consent decree which is in force as of the effective date of this section.

(e) Nothing in this section shall be interpreted as prohibiting action which must be taken to establish or maintain eligibility for any federal program, where ineligibility would result in a loss of federal funds to the State.

(f) For the purposes of this section, “State” shall include, but not necessarily be limited to, the State itself, any city, county, city and county, public university system, including the University of California, community college district, school district, special district, or any other political subdivision or governmental instrumentality of or within the State.

(g) The remedies available for violations of this section shall be the same, regardless of the injured party’s race, sex, color, ethnicity, or national origin, as are otherwise available for violations of then-existing California antidiscrimination law.

(h) This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law or the United States Constitution, the section shall be implemented to the maximum extent that federal law and the United States Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section.

[New section adopted November 5, 1996. Initiative measure.]

ARTICLE II. [Repealed November 7, 1972. See Article II, below.]

ARTICLE II*

VOTING, INITIATIVE AND REFERENDUM, AND RECALL

[Heading as amended June 8, 1976.]

SEC. 1. [Renumbered Section 2 June 8, 1976. See Section 1, below.]

[Purpose of Government]

SECTION 1. All political power is inherent in the people. Government is instituted for their protection, security, and benefit, and they have the right to alter or reform it when the public good may require. [Former Section 26 of Article I, as renumbered June 8, 1976.]

SEC. 1 1⁄2. [Repealed November 7, 1972.]

SEC. 2. [Renumbered Section 3 June 8, 1976. See Section 2, below.]

[Right to Vote]

SEC. 2. A United States citizen 18 years of age and resident in this State may vote. [Former Section 1, as renumbered June 8, 1976.]

SEC. 2.5.  [Repealed November 7, 1972. See Section 2.5, below.]

[Right to Have Vote Counted]

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. [New Section adopted November 5, 2002.]

SEC. 2 3/4.  [Repealed November 7, 1972.]

SEC. 3.  [Renumbered Section 4 June 8, 1976. See Section 3, below.]

[Residence—Registration—Free Elections]

SEC. 3. The Legislature shall define residence and provide for registration and free elections. [Former Section 2, as renumbered June 8, 1976.]

SEC. 4.  [Renumbered Section 5 June 8, 1976. See Section 4, below.]

[Improper Practices That Affect Elections—Mentally Incompetent, Etc.]

SEC. 4. The Legislature shall prohibit improper practices that affect elections and shall provide for the disqualification of electors while mentally incompetent or imprisoned or on parole for the conviction of a felony. [Former Section 3, as renumbered June 8, 1976.]

SEC. 5.  [Renumbered Section 6 June 8, 1976. See Section 5, below.]

[Primary Elections for Partisan Offices—Open Presidential Primary]

SEC. 5. The Legislature shall provide for primary elections for partisan offices, including an open presidential primary whereby the candidates on the ballot are those found by the Secretary of State to be recognized candidates throughout the nation or throughout California for the office of President of the United States, and those whose names are placed on the ballot by petition, but excluding any candidate who has withdrawn by filing an affidavit of noncandidacy. [Former Section 4, as renumbered June 8, 1976.]

[Nonpartisan Offices]

SEC. 6. (a) All judicial, school, county, and city offices shall be non-partisan.

(b) No political party or party central committee may endorse, support, or oppose a candidate for nonpartisan office. [As amended June 3, 1986.]

[Voting—Secret]

SEC. 7. Voting shall be secret. [Former Section 6, as renumbered June 8, 1976.]
SEC. 8. (a) The initiative is the power of the electors to propose statutes and amendments to the Constitution and to adopt or reject them.

(b) An initiative measure may be proposed by presenting to the Secretary of State a petition that sets forth the text of the proposed statute or amendment to the Constitution and is certified to have been signed by electors equal in number to 5 percent in the case of a statute, and 8 percent in the case of an amendment to the Constitution, of the votes for all candidates for Governor at the last gubernatorial election.

(c) The Secretary of State shall then submit the measure at the next general election held at least 131 days after it qualifies or at any special statewide election held prior to that general election. The Governor may call a special statewide election for the measure.

(d) An initiative measure embracing more than one subject may not be submitted to the electors or have any effect.

(e) An initiative measure may not include or exclude any political subdivision of the State from the application or effect of its provisions based upon approval or disapproval of the initiative measure, or based upon the casting of a specified percentage of votes in favor of the measure, by the electors of that political subdivision.

(f) An initiative measure may not contain alternative or cumulative provisions wherein one or more of those provisions would become law depending upon the casting of a specified percentage of votes for or against the measure. [As amended June 2, 1998.]

SEC. 9. (a) The referendum is the power of the electors to approve or reject statutes or parts of statutes except urgency statutes, statutes calling elections, and statutes providing for tax levies or appropriations for usual current expenses of the State.

(b) A referendum measure may be proposed by presenting to the Secretary of State, within 90 days after the enactment date of the statute, a petition certified to have been signed by electors equal in number to 5 percent of the votes for all candidates for Governor at the last gubernatorial election, asking that the statute or part of it be submitted to the electors. In the case of a statute enacted by a bill passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, the petition may not be presented on or after January 1 next following the enactment date unless a copy of the petition is submitted to the Attorney General pursuant to subdivision (d) of Section 10 of Article II before January 1.

(c) The Secretary of State shall then submit the measure at the next general election held at least 31 days after it qualifies or at a special state-
wide election held prior to that general election. The Governor may call a special statewide election for the measure. [As amended June 5, 1990.]

[Initiative and Referendum—Vote and Effective Date—Conflicts—Legislative Repeal or Amendment—Titling]

Sec. 10. (a) An initiative statute or referendum approved by a majority of votes thereon takes effect the day after the election unless the measure provides otherwise. If a referendum petition is filed against a part of a statute the remainder shall not be delayed from going into effect.

(b) If provisions of 2 or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail.

(c) The Legislature may amend or repeal referendum statutes. It may amend or repeal an initiative statute by another statute that becomes effective only when approved by the electors unless the initiative statute permits amendment or repeal without their approval.

(d) Prior to circulation of an initiative or referendum petition for signatures, a copy shall be submitted to the Attorney General who shall prepare a title and summary of the measure as provided by law.

(e) The Legislature shall provide the manner in which petitions shall be circulated, presented, and certified, and measures submitted to the electors. [Former Section 24 of Article IV, as renumbered June 8, 1976.]

[Initiative and Referendum—Cities or Counties]

Sec. 11. (a) Initiative and referendum powers may be exercised by the electors of each city or county under procedures that the Legislature shall provide. Except as provided in subdivisions (b) and (c), this section does not affect a city having a charter.

(b) A city or county initiative measure may not include or exclude any part of the city or county from the application or effect of its provisions based upon approval or disapproval of the initiative measure, or based upon the casting of a specified percentage of votes in favor of the measure, by the electors of the city or county or any part thereof.

(c) A city or county initiative measure may not contain alternative or cumulative provisions wherein one or more of those provisions would become law depending upon the casting of a specified percentage of votes for or against the measure. [As amended June 2, 1998.]

[Naming Individual or Private Corporation to Office or Duty Prohibited]

Sec. 12. No amendment to the Constitution, and no statute proposed to the electors by the Legislature or by initiative, that names any individual to hold any office, or names or identifies any private corporation to perform any function or to have any power or duty, may be submitted to the electors or have any effect. [Former Section 26 of Article IV, as renumbered June 8, 1976.]
SEC. 13. Recall is the power of the electors to remove an elective officer. [New section adopted June 8, 1976.]

[Recall Petitions]
SEC. 14. (a) Recall of a state officer is initiated by delivering to the Secretary of State a petition alleging reason for recall. Sufficiency of reason is not reviewable. Proponents have 160 days to file signed petitions.

(b) A petition to recall a statewide officer must be signed by electors equal in number to 12 percent of the last vote for the office, with signatures from each of 5 counties equal in number to 1 percent of the last vote for the office in the county. Signatures to recall Senators, members of the Assembly, members of the Board of Equalization, and judges of courts of appeal and trial courts must equal in number 20 percent of the last vote for the office.

(c) The Secretary of State shall maintain a continuous count of the signatures certified to that office. [New section adopted June 8, 1976.]

[Recall Elections]
SEC. 15. (a) An election to determine whether to recall an officer and, if appropriate, to elect a successor shall be called by the Governor and held not less than 60 days nor more than 80 days from the date of certification of sufficient signatures.

(b) A recall election may be conducted within 180 days from the date of certification of sufficient signatures in order that the election may be consolidated with the next regularly scheduled election occurring wholly or partially within the same jurisdiction in which the recall election is held, if the number of voters eligible to vote at that next regularly scheduled election equal at least 50 percent of all the voters eligible to vote at the recall election.

(c) If the majority vote on the question is to recall, the officer is removed and, if there is a candidate, the candidate who receives a plurality is the successor. The officer may not be a candidate, nor shall there be any candidacy for an office filled pursuant to subdivision (d) of Section 16 of Article VI. [As amended November 8, 1994.]

[Legislature to Provide for Petitions, Etc.]
SEC. 16. The Legislature shall provide for circulation, filing, and certification of petitions, nomination of candidates, and the recall election. [New section adopted June 8, 1976.]

[Recall of Governor or Secretary of State]
SEC. 17. If recall of the Governor or Secretary of State is initiated, the recall duties of that office shall be performed by the Lieutenant Governor or Controller, respectively. [New section adopted June 8, 1976.]
[Reimbursement of Recall Election Expenses]

SEC. 18. A state officer who is not recalled shall be reimbursed by the State for the officer’s recall election expenses legally and personally incurred. Another recall may not be initiated against the officer until six months after the election. [New section adopted June 8, 1976.]

[Recall of Local Officers]

SEC. 19. The Legislature shall provide for recall of local officers. This section does not affect counties and cities whose charters provide for recall. [New section adopted June 8, 1976.]

[Terms of Elective Offices]

SEC. 20. Terms of elective offices provided for by this Constitution, other than Members of the Legislature, commence on the Monday after January 1 following election. The election shall be held in the last even-numbered year before the term expires. [New section adopted June 8, 1976.]

ARTICLE III. [Repealed November 7, 1972. See Article III, below.]

ARTICLE III*

STATE OF CALIFORNIA

[United States Constitution Supreme Law]

SEC. 1. The State of California is an inseparable part of the United States of America, and the United States Constitution is the supreme law of the land. [New section adopted November 7, 1972.]

[Boundaries of the State—Sacramento Seat of Government]

SEC. 2. The boundaries of the State are those stated in the Constitution of 1849 as modified pursuant to statute. Sacramento is the capital of California. [New section adopted November 7, 1972.]

[Separation of Powers]

SEC. 3. The powers of state government are legislative, executive, and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution. [New section adopted November 7, 1972.]

[Administrative Agencies: Declaration Statute Unenforceable or Unconstitutional Prohibited]

SEC. 3.5. An administrative agency, including an administrative agency created by the Constitution or an initiative statute, has no power:

(a) To declare a statute unenforceable, or refuse to enforce a statute, on the basis of it being unconstitutional unless an appellate court has made a determination that such statute is unconstitutional;

(b) To declare a statute unconstitutional;

(c) To declare a statute unenforceable, or to refuse to enforce a statute on the basis that federal law or federal regulations prohibit the enforcement of such statute unless an appellate court has made a determination that the enforcement of such statute is prohibited by federal law or federal regulations. [New section adopted June 6, 1978.]

Salaries of Elected State Officers—Salaries of Judges

SEC. 4. (a) Except as provided in subdivision (b), salaries of elected state officers may not be reduced during their term of office. Laws that set these salaries are appropriations.

(b) Beginning on January 1, 1981, the base salary of a judge of a court of record shall equal the annual salary payable as of July 1, 1980, for that office had the judge been elected in 1978. The Legislature may prescribe increases in those salaries during a term of office, and it may terminate prospective increases in those salaries at any time during a term of office, but it shall not reduce the salary of a judge during a term of office below the highest level paid during that term of office. Laws setting the salaries of judges shall not constitute an obligation of contract pursuant to Section 9 of Article I or any other provision of law. [As amended November 4, 1980.]

Suits Against State

SEC. 5. Suits may be brought against the State in such manner and in such courts as shall be directed by law. [New section adopted November 7, 1972.]

Official State Language

SEC. 6. (a) Purpose.

English is the common language of the people of the United States of America and the State of California. This section is intended to preserve, protect and strengthen the English language, and not to supersede any of the rights guaranteed to the people by this Constitution.

(b) English as the Official Language of California.

English is the official language of the State of California.

(c) Enforcement.

The Legislature shall enforce this section by appropriate legislation. The Legislature and officials of the State of California shall take all steps necessary to insure that the role of English as the common language of the
State of California is preserved and enhanced. The Legislature shall make no law which diminishes or ignores the role of English as the common language of the State of California.

(d) Personal Right of Action and Jurisdiction of Courts.

Any person who is a resident of or doing business in the State of California shall have standing to sue the State of California to enforce this section, and the Courts of record of the State of California shall have jurisdiction to hear cases brought to enforce this section. The Legislature may provide reasonable and appropriate limitations on the time and manner of suits brought under this section. [New section adopted November 4, 1986. Initiative measure.]

[Retirement Benefits for Elected Constitutional Officers]

SEC. 7. (a) The retirement allowance for any person, all of whose credited service in the Legislators’ Retirement System was rendered or was deemed to have been rendered as an elective officer of the State whose office is provided for by the California Constitution, other than a judge and other than a Member of the Senate or Assembly, and all or any part of whose retirement allowance is calculated on the basis of the compensation payable to the officer holding the office which the member last held prior to retirement, or for the survivor or beneficiary of such a person, shall not be increased or affected in any manner by changes on or after November 5, 1986, in the compensation payable to the officer holding the office which the member last held prior to retirement.

(b) This section shall apply to any person, survivor, or beneficiary described in subdivision (a) who receives, or is receiving, from the Legislators’ Retirement System a retirement allowance on or after November 5, 1986, all or any part of which allowance is calculated on the basis of the compensation payable to the officer holding the office which the member last held prior to retirement.

(c) It is the intent of the people, in adopting this section, to restrict retirement allowances to amounts reasonably to be expected by certain members and retired members of the Legislators’ Retirement System and to preserve the basic character of earned retirement benefits while prohibiting windfalls and unforeseen advantages which have no relation to the real theory and objective of a sound retirement system. It is not the intent of this section to deny any member, retired member, survivor, or beneficiary a reasonable retirement allowance. Thus, this section shall not be construed as a repudiation of a debt nor the impairment of a contract for a substantial and reasonable retirement allowance from the Legislators’ Retirement System.

(d) The people and the Legislature hereby find and declare that the dramatic increase in the retirement allowances of persons described in subdivision (a) which would otherwise result when the compensation for
those offices increases on November 5, 1986, or January 5, 1987, are not benefits which could have reasonably been expected. The people and the Legislature further find and declare that the Legislature did not intend to provide in its scheme of compensation for those offices such windfall benefits. [New section adopted November 4, 1986.]

[California Citizens Compensation Commission]

SEC. 8. (a) The California Citizens Compensation Commission is hereby created and shall consist of seven members appointed by the Governor. The commission shall establish the annual salary and the medical dental, insurance, and other similar benefits of state officers.

(b) The commission shall consist of the following persons:

(1) Three public members, one of whom has expertise in the area of compensation, such as an economist, market researcher, or personnel manager; one of whom is a member of a nonprofit public interest organization; and one of whom is representative of the general population and may include, among others, a retiree, homemaker, or person of median income. No person appointed pursuant to this paragraph may, during the 12 months prior to his or her appointment, have held public office, either elective or appointive, have been a candidate for elective public office, or have been a lobbyist, as defined by the Political Reform Act of 1974.

(2) Two members who have experience in the business community, one of whom is an executive of a corporation incorporated in this State which ranks among the largest private sector employers in the State based on the number of employees employed by the corporation in this State and one of whom is an owner of a small business in this State.

(3) Two members, each of whom is an officer or member of a labor organization.

(c) The Governor shall strive insofar as practicable to provide a balanced representation of the geographic, gender, racial, and ethnic diversity of the State in appointing commission members.

(d) The Governor shall appoint commission members and designate a chairperson for the commission not later than 30 days after the effective date of this section. The terms of two of the initial appointees shall expire on December 31, 1992, two on December 31, 1994, and three on December 31, 1996, as determined by the Governor. Thereafter, the term of each member shall be six years. Within 15 days of any vacancy, the Governor shall appoint a person to serve the unexpired portion of the term.

(e) No current or former officer or employee of this State is eligible for appointment to the commission.

(f) Public notice shall be given of all meetings of the commission, and the meetings shall be open to the public.

(g) On or before December 3, 1990, the commission shall, by a single resolution adopted by a majority of the membership of the commission,
establish the annual salary and the medical, dental, insurance, and other similar benefits of state officers. The annual salary and benefits specified in that resolution shall be effective on and after December 3, 1990.

Thereafter, at or before the end of each fiscal year, the commission shall, by a single resolution adopted by a majority of the membership of the commission, adjust the annual salary and the medical, dental, insurance, and other similar benefits of state officers. The annual salary and benefits specified in the resolution shall be effective on and after the first Monday of the next December.

(h) In establishing or adjusting the annual salary and the medical, dental, insurance, and other similar benefits, the commission shall consider all of the following:

(1) The amount of time directly or indirectly related to the performance of the duties, functions, and services of a state officer.

(2) The amount of the annual salary and the medical, dental, insurance, and other similar benefits for other elected and appointed officers and officials in this State with comparable responsibilities, the judiciary, and, to the extent practicable, the private sector, recognizing, however, that state officers do not receive, and do not expect to receive, compensation at the same levels as individuals in the private sector with comparable experience and responsibilities.

(3) The responsibility and scope of authority of the entity in which the state officer serves.

(i) Until a resolution establishing or adjusting the annual salary and the medical, dental, insurance, and other similar benefits for state officers takes effect, each state officer shall continue to receive the same annual salary and the medical, dental, insurance, and other similar benefits received previously.

(j) All commission members shall receive their actual and necessary expenses, including travel expenses, incurred in the performance of their duties. Each member shall be compensated at the same rate as members, other than the chairperson, of the Fair Political Practices Commission, or its successor, for each day engaged in official duties, not to exceed 45 days per year.

(k) It is the intent of the Legislature that the creation of the commission should not generate new state costs for staff and services. The Department of Personnel Administration, the Board of Administration of the Public Employees’ Retirement System, or other appropriate agencies, or their successors, shall furnish, from existing resources, staff and services to the commission as needed for the performance of its duties.

(l) “State officer,” as used in this section, means the Governor, Lieutenant Governor, Attorney General, Controller, Insurance Commissioner,
Secretary of State, Superintendent of Public Instruction, Treasurer, member of the State Board of Equalization, and Member of the Legislature.  [New section adopted June 5, 1990.]

ARTICLE IV

LEGISLATIVE

[Heading as amended November 8, 1966.]

SECTION 1. [Repealed November 8, 1966. See Section 1, below.]

[Legislative Power]

SEC. 1. The legislative power of this State is vested in the California Legislature which consists of the Senate and Assembly, but the people reserve to themselves the powers of initiative and referendum. [New section adopted November 8, 1966.]

SEC. 1a. [Renumbered Section 20 of Article XIII and amended November 8, 1966.]

SEC. 1b. [Repealed November 8, 1966.]

SEC. 1c. [Repealed November 8, 1966.]

SEC. 1d. [Repealed November 8, 1966.]

[Legislators—Limitation on Incumbency—Restriction of Retirement Benefits—Limitation of Staff and Support Services—Number of Terms]

SEC. 1.5. The people find and declare that the Founding Fathers established a system of representative government based upon free, fair, and competitive elections. The increased concentration of political power in the hands of incumbent representatives has made our electoral system less free, less competitive, and less representative.

The ability of legislators to serve unlimited number of terms, to establish their own retirement system, and to pay for staff and support services at state expense contribute heavily to the extremely high number of incumbents who are reelected. These unfair incumbent advantages discourage qualified candidates from seeking public office and create a class of career politicians, instead of the citizen representatives envisioned by the Founding Fathers. These career politicians become representatives of the bureaucracy, rather than of the people whom they are elected to represent.

To restore a free and democratic system of fair elections, and to encourage qualified candidates to seek public office, the people find and declare that the powers of incumbency must be limited. Retirement benefits must be restricted, state-financed incumbent staff and support services limited, and limitations placed upon the number of terms which may be served. [New section adopted November 6, 1990. Initiative measure.]
SEC. 2. (a) The Senate has a membership of 40 Senators elected for 4-year terms, 20 to begin every 2 years. No Senator may serve more than 2 terms.

The Assembly has a membership of 80 members elected for 2-year terms. No member of the Assembly may serve more than 3 terms.

Their terms shall commence on the first Monday in December next following their election.

(b) Election of members of the Assembly shall be on the first Tuesday after the first Monday in November of even-numbered years unless otherwise prescribed by the Legislature. Senators shall be elected at the same time and places as members of the Assembly.

(c) A person is ineligible to be a member of the Legislature unless the person is an elector and has been a resident of the legislative district for one year, and a citizen of the United States and a resident of California for 3 years, immediately preceding the election.

(d) When a vacancy occurs in the Legislature the Governor immediately shall call an election to fill the vacancy. [As amended November 6, 1990. Initiative measure.]

SEC. 3. (a) The Legislature shall convene in regular session at noon on the first Monday in December of each even-numbered year and each house shall immediately organize. Each session of the Legislature shall adjourn sine die by operation of the Constitution at midnight on November 30 of the following even-numbered year.

(b) On extraordinary occasions the Governor by proclamation may cause the Legislature to assemble in special session. When so assembled it has power to legislate only on subjects specified in the proclamation but may provide for expenses and other matters incidental to the session. [As amended June 8, 1976.]

SEC. 4. (a) To eliminate any appearance of a conflict with the proper discharge of his or her duties and responsibilities, no Member of the Legislature may knowingly receive any salary, wages, commissions, or other similar earned income from a lobbyist or lobbying firm, as defined by the Political Reform Act of 1974, or from a person who, during the previous 12 months, has been under a contract with the Legislature. The Legislature shall enact laws that define earned income. However, earned income does not include any community property interest in the income of a spouse. Any Member who knowingly receives any salary, wages, commissions, or other similar earned income from a lobbyist employer, as defined by the
Political Reform Act of 1974, may not, for a period of one year following its receipt, vote upon or make, participate in making, or in any way attempt to use his or her official position to influence an action or decision before the Legislature, other than an action or decision involving a bill described in subdivision (c) of Section 12 of this article, which he or she knows, or has reason to know, would have a direct and significant financial impact on the lobbyist employer and would not impact the public generally or a significant segment of the public in a similar manner. As used in this subdivision, “public generally” includes an industry, trade, or profession.

[Legislators—Travel and Living Expenses]

(b) Travel and living expenses for Members of the Legislature in connection with their official duties shall be prescribed by statute passed by rollecall vote entered in the journal, two-thirds of the membership of each house concurring. A Member may not receive travel and living expenses during the times that the Legislature is in recess for more than three calendar days, unless the Member is traveling to or from, or is in attendance at, any meeting of a committee of which he or she is a member, or a meeting, conference, or other legislative function or responsibility as authorized by the rules of the house of which he or she is a member, which is held at a location at least 20 miles from his or her place of residence.

[Legislators—Retirement]

(c) The Legislature may not provide retirement benefits based on any portion of a monthly salary in excess of five hundred dollars ($500) paid to any Member of the Legislature unless the Member receives the greater amount while serving as a Member in the Legislature. The Legislature may, prior to their retirement, limit the retirement benefits payable to Members of the Legislature who serve during or after the term commencing in 1967.

When computing the retirement allowance of a Member who serves in the Legislature during the term commencing in 1967 or later, allowance may be made for increases in cost of living if so provided by statute, but only with respect to increases in the cost of living occurring after retirement of the Member. However, the Legislature may provide that no Member shall be deprived of a cost of living adjustment based on a monthly salary of five hundred dollars ($500) which has accrued prior to the commencement of the 1967 Regular Session of the Legislature. [As amended June 5, 1990.]

[Legislators—Retirement]

Sec. 4.5. Notwithstanding any other provision of this Constitution or existing law, a person elected to or serving in the Legislature on or after November 1, 1990, shall participate in the Federal Social Security (Retirement, Disability, Health Insurance) Program and the State shall pay
only the employer’s share of the contribution necessary to such participation. No other pension or retirement benefit shall accrue as a result of service in the Legislature, such service not being intended as a career occupation. This Section shall not be construed to abrogate or diminish any vested pension or retirement benefit which may have accrued under an existing law to a person holding or having held office in the Legislature, but upon adoption of this Act no further entitlement to nor vesting in any existing program shall accrue to any such person, other than Social Security to the extent herein provided. [New section adopted November 6, 1990. Initiative measure.]**

**Legislators—Qualifications—Expulsion**

SEC. 5. (a) Each house shall judge the qualifications and elections of its Members and, by rollcall vote entered in the journal, two thirds of the membership concurring, may expel a Member.

**Legislators—Honoraria**

(b) No Member of the Legislature may accept any honorarium. The Legislature shall enact laws that implement this subdivision.

**Legislators—Gifts—Conflict of Interest**

(c) The Legislature shall enact laws that ban or strictly limit the acceptance of a gift by a Member of the Legislature from any source if the acceptance of the gift might create a conflict of interest.

**Legislators—Prohibited Compensation or Activity**

(d) No Member of the Legislature may knowingly accept any compensation for appearing, agreeing to appear, or taking any other action on behalf of another person before any state government board or agency. If a Member knowingly accepts any compensation for appearing, agreeing to appear, or taking any other action on behalf of another person before any local government board or agency, the Member may not, for a period of one year following the acceptance of the compensation, vote upon or make, participate in making, or in any way attempt to use his or her official position to influence an action or decision before the Legislature, other than an action or decision involving a bill described in subdivision (c) of Section 12 of this article, which he or she knows, or has reason to know, would have a direct and significant financial impact on that person and would not impact the public generally or a significant segment of the public in a similar manner. As used in this subdivision, “public generally” includes an industry, trade, or profession. However, a Member may engage in activities involving a board or agency which are strictly on his or her own behalf, appear in the capacity of an attorney before any court or the Workers’ Compensation Appeals Board, or act as an advocate without compensation or make an inquiry for information on behalf of a person be-
before a board or agency. This subdivision does not prohibit any action of a partnership or firm of which the Member is a member if the Member does not share directly or indirectly in the fee, less any expenses attributable to that fee, resulting from that action.

[Lobbying]

(e) The Legislature shall enact laws that prohibit a Member of the Legislature whose term of office commences on or after December 3, 1990, from lobbying, for compensation, as governed by the Political Reform Act of 1974, before the Legislature for 12 months after leaving office.

[Conflict of Interest]

(f) The Legislature shall enact new laws, and strengthen the enforcement of existing laws, prohibiting Members of the Legislature from engaging in activities or having interests which conflict with the proper discharge of their duties and responsibilities. However, the people reserve to themselves the power to implement this requirement pursuant to Article II.

[As amended June 5, 1990. Subdivision (b) operative December 3, 1990.]

SEC. 6. [Repealed June 3, 1980. See Section 6, below.]

[Senatorial and Assembly Districts]

SEC. 6. For the purpose of choosing members of the Legislature, the State shall be divided into 40 Senatorial and 80 Assembly districts to be called Senatorial and Assembly Districts. Each Senatorial district shall choose one Senator and each Assembly district shall choose one member of the Assembly. [New section adopted June 3, 1980.]

[House Rules—Officers—Quorum]

SEC. 7. (a) Each house shall choose its officers and adopt rules for its proceedings. A majority of the membership constitutes a quorum, but a smaller number may recess from day to day and compel the attendance of absent members.

[Journals]

(b) Each house shall keep and publish a journal of its proceedings. The rollcall vote of the members on a question shall be taken and entered in the journal at the request of 3 members present.

[Public Proceedings—Closed Sessions]

(c) (1) The proceedings of each house and the committees thereof shall be open and public. However, closed sessions may be held solely for any of the following purposes:

(A) To consider the appointment, employment, evaluation of performance, or dismissal of a public officer or employee, to consider or hear complaints or charges brought against a Member of the Legislature or other
public officer or employee, or to establish the classification or compensation of an employee of the Legislature.

(B) To consider matters affecting the safety and security of Members of the Legislature or its employees or the safety and security of any buildings and grounds used by the Legislature.

(C) To confer with, or receive advice from, its legal counsel regarding pending or reasonably anticipated, or whether to initiate, litigation when discussion in open session would not protect the interests of the house or committee regarding the litigation.

(2) A caucus of the Members of the Senate, the Members of the Assembly, or the Members of both houses, which is composed of the members of the same political party, may meet in closed session.

(3) The Legislature shall implement this subdivision by concurrent resolution adopted by rollcall vote entered in the journal, two-thirds of the membership of each house concurring, or by statute, and shall prescribe that, when a closed session is held pursuant to paragraph (1), reasonable notice of the closed session and the purpose of the closed session shall be provided to the public. If there is a conflict between a concurrent resolution and statute, the last adopted or enacted shall prevail.

(d) Neither house without the consent of the other may recess for more than 10 days or to any other place. [As amended June 5, 1990. Subdivision (c) operative December 3, 1990.]

[Legislature—Total Aggregate Expenditures]

Sec. 7.5. In the fiscal year immediately following the adoption of this Act, the total aggregate expenditures of the Legislature for the compensation of members and employees of, and the operating expenses and equipment for, the Legislature may not exceed an amount equal to nine hundred fifty thousand dollars ($950,000) per member for that fiscal year or 80 percent of the amount of money expended for those purposes in the preceding fiscal year, whichever is less. For each fiscal year thereafter, the total aggregate expenditures may not exceed an amount equal to that expended for those purposes in the preceding fiscal year, adjusted and compounded by an amount equal to the percentage increase in the appropriations limit for the State established pursuant to Article XIII B. [New section adopted November 6, 1990. Initiative measure.]

[Bills and Statutes—30-day Waiting Period]

Sec. 8. (a) At regular sessions no bill other than the budget bill may be heard or acted on by committee or either house until the 31st day after the bill is introduced unless the house dispenses with this requirement by rollcall vote entered in the journal, three fourths of the membership concurring.
(b) The Legislature may make no law except by statute and may enact no statute except by bill. No bill may be passed unless it is read by title on 3 days in each house except that the house may dispense with this requirement by rollcall vote entered in the journal, two thirds of the membership concurring. No bill may be passed until the bill with amendments has been printed and distributed to the members. No bill may be passed unless, by rollcall vote entered in the journal, a majority of the membership of each house concurs.

(c) (1) Except as provided in paragraphs (2) and (3) of this subdivision, a statute enacted at a regular session shall go into effect on January 1 next following a 90-day period from the date of enactment of the statute and a statute enacted at a special session shall go into effect on the 91st day after adjournment of the special session at which the bill was passed.

(2) A statute, other than a statute establishing or changing boundaries of any legislative, congressional, or other election district, enacted by a bill passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, shall go into effect on January 1 next following the enactment date of the statute unless, before January 1, a copy of a referendum petition affecting the statute is submitted to the Attorney General pursuant to subdivision (d) of Section 10 of Article II, in which event the statute shall go into effect on the 91st day after the enactment date unless the petition has been presented to the Secretary of State pursuant to subdivision (b) of Section 9 of Article II.

(3) Statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes shall go into effect immediately upon their enactment.

(d) Urgency statutes are those necessary for immediate preservation of the public peace, health, or safety. A statement of facts constituting the necessity shall be set forth in one section of the bill. In each house the section and the bill shall be passed separately, each by rollcall vote entered in the journal, two thirds of the membership concurring. An urgency statute may not create or abolish any office or change the salary, term, or duties of any office, or grant any franchise or special privilege, or create any vested right or interest. [As amended June 5, 1990.]
SEC. 8.5. An act amending an initiative statute, an act providing for the issuance of bonds, or a constitutional amendment proposed by the Legislature and submitted to the voters for approval may not do either of the following:

(a) Include or exclude any political subdivision of the State from the application or effect of its provisions based upon approval or disapproval of the measure, or based upon the casting of a specified percentage of votes in favor of the measure, by the electors of that political subdivision.

(b) Contain alternative or cumulative provisions wherein one or more of those provisions would become law depending upon the casting of a specified percentage of votes for or against the measure. [New section adopted June 2, 1998.]

SEC. 9. [Repealed November 8, 1966. See Section 9, below.]

SEC. 9. A statute shall embrace but one subject, which shall be expressed in its title. If a statute embraces a subject not expressed in its title, only the part not expressed is void. A statute may not be amended by reference to its title. A section of a statute may not be amended unless the section is re-enacted as amended. [New section adopted November 8, 1966.]

SEC. 10. (a) Each bill passed by the Legislature shall be presented to the Governor. It becomes a statute if it is signed by the Governor. The Governor may veto it by returning it with any objections to the house of origin, which shall enter the objections in the journal and proceed to reconsider it. If each house then passes the bill by rollcall vote entered in the journal, two thirds of the membership concurring, it becomes a statute.

(b) (1) Any bill, other than a bill which would establish or change boundaries of any legislative, congressional, or other election district, passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, that is not returned within 30 days after that date becomes a statute.

(2) Any bill passed by the Legislature before September 1 of the second calendar year of the biennium of the legislative session and in the possession of the Governor on or after September 1 that is not returned on or before September 30 of that year becomes a statute.

(3) Any other bill presented to the Governor that is not returned within 12 days becomes a statute.

(4) If the Legislature by adjournment of a special session prevents the return of a bill with the veto message, the bill becomes a statute unless the
Governor vetoes the bill within 12 days after it is presented by depositing it and the veto message in the office of the Secretary of State.

(5) If the 12th day of the period within which the Governor is required to perform an act pursuant to paragraph (3) or (4) of this subdivision is a Saturday, Sunday, or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday.

(c) Any bill introduced during the first year of the biennium of the legislative session that has not been passed by the house of origin by January 31 of the second calendar year of the biennium may no longer be acted on by the house. No bill may be passed by either house on or after September 1 of an even-numbered year except statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes, and bills passed after being vetoed by the Governor.

(d) The Legislature may not present any bill to the Governor after November 15 of the second calendar year of the biennium of the legislative session.

(e) The Governor may reduce or eliminate one or more items of appropriation while approving other portions of a bill. The Governor shall append to the bill a statement of the items reduced or eliminated with the reasons for the action. The Governor shall transmit to the house originating the bill a copy of the statement and reasons. Items reduced or eliminated shall be separately reconsidered and may be passed over the Governor’s veto in the same manner as bills. [As amended June 5, 1990.]

[Committees]

SEC. 11. The Legislature or either house may by resolution provide for the selection of committees necessary for the conduct of its business, including committees to ascertain facts and make recommendations to the Legislature on a subject within the scope of legislative control. [As amended November 7, 1972.]

[Governor’s Budget—Budget Bill—Other Appropriations]

SEC. 12. (a) Within the first 10 days of each calendar year, the Governor shall submit to the Legislature, with an explanatory message, a budget for the ensuing fiscal year containing itemized statements for recommended state expenditures and estimated state revenues. If recommended expenditures exceed estimated revenues, the Governor shall recommend the sources from which the additional revenues should be provided.

(b) The Governor and the Governor-elect may require a state agency, officer or employee to furnish whatever information is deemed necessary to prepare the budget.
(c) The budget shall be accompanied by a budget bill itemizing recommended expenditures. The bill shall be introduced immediately in each house by the persons chairing the committees that consider appropriations. The Legislature shall pass the budget bill by midnight on June 15 of each year. Until the budget bill has been enacted, the Legislature shall not send to the Governor for consideration any bill appropriating funds for expenditure during the fiscal year for which the budget bill is to be enacted, except emergency bills recommended by the Governor or appropriations for the salaries and expenses of the Legislature.

(d) No bill except the budget bill may contain more than one item of appropriation, and that for one certain, expressed purpose. Appropriations from the General Fund of the State, except appropriations for the public schools, are void unless passed in each house by rollcall vote entered in the journal, two thirds of the membership concurring.

(e) The Legislature may control the submission, approval, and enforcement of budgets and the filing of claims for all state agencies. [As amended June 4, 1974, and November 5, 1974.]

[Legislators—Ineligible for Certain Offices]

SEC. 13. A member of the Legislature may not, during the term for which the member is elected, hold any office or employment under the State other than an elective office. [As amended November 5, 1974.]

SEC. 14. [Repealed November 8, 1966. See Section 14, below.]

[Members—Not Subject to Civil Process]

SEC. 14. A member of the Legislature is not subject to civil process during a session of the Legislature or for 5 days before and after a session. [New section adopted November 8, 1966.]

[Influencing Action or Vote of a Member—Felony]

SEC. 15. A person who seeks to influence the vote or action of a member of the Legislature in the member’s legislative capacity by bribery, promise of reward, intimidation, or other dishonest means, or a member of the Legislature so influenced, is guilty of a felony. [As amended November 5, 1974.]

[Uniform Operation of General Laws—Special Statute—Invalid]

SEC. 16. (a) All laws of a general nature have uniform operation.

(b) A local or special statute is invalid in any case if a general statute can be made applicable. [As amended November 5, 1974.]

SEC. 17. [Repealed November 8, 1966. See Section 17, below.]

[Grant of Extra Compensation or Allowance Prohibited]

SEC. 17. The Legislature has no power to grant, or to authorize a city, county, or other public body to grant, extra compensation or extra allow-
ance to a public officer, public employee, or contractor after service has been rendered or a contract has been entered into and performed in whole or in part, or to authorize the payment of a claim against the State or a city, county, or other public body under an agreement made without authority of law. [New section adopted November 8, 1966.]

SEC. 18. [Repealed November 8, 1966. See Section 18, below.]

[Impeachment]

SEC. 18. (a) The Assembly has the sole power of impeachment. Impeachments shall be tried by the Senate. A person may not be convicted unless, by rollcall vote entered in the journal, two thirds of the membership of the Senate concurs.

(b) State officers elected on a statewide basis, members of the State Board of Equalization, and judges of state courts are subject to impeachment for misconduct in office. Judgment may extend only to removal from office and disqualification to hold any office under the State, but the person convicted or acquitted remains subject to criminal punishment according to law. [New section adopted November 8, 1966.]

[Lotteries—Horse Races Regulated—Bingo Games and Raffles for Charitable Purposes—Gaming on Tribal Lands]

SEC. 19. (a) The Legislature has no power to authorize lotteries and shall prohibit the sale of lottery tickets in the State.

(b) The Legislature may provide for the regulation of horse races and horse race meetings and wagering on the results.

(c) Notwithstanding subdivision (a), the Legislature by statute may authorize cities and counties to provide for bingo games, but only for charitable purposes.

(d) Notwithstanding subdivision (a), there is authorized the establishment of a California State Lottery.

(e) The Legislature has no power to authorize, and shall prohibit, casinos of the type currently operating in Nevada and New Jersey.

(f)* Notwithstanding subdivisions (a) and (e), and any other provision of state law, the Governor is authorized to negotiate and conclude compacts, subject to ratification by the Legislature, for the operation of slot machines and for the conduct of lottery games and banking and percentage card games by federally recognized Indian tribes on Indian lands in California in accordance with federal law. Accordingly, slot machines, lottery games, and banking and percentage card games are hereby permitted to be conducted and operated on tribal lands subject to those compacts.

(f)† Notwithstanding subdivision (a), the Legislature may authorize private, nonprofit, eligible organizations, as defined by the Legislature, to conduct raffles as a funding mechanism to provide support for their own

or another private, nonprofit, eligible organization’s beneficial and charitable works, provided that (1) at least 90 percent of the gross receipts from the raffle go directly to beneficial or charitable purposes in California, and (2) any person who receives compensation in connection with the operation of a raffle is an employee of the private nonprofit organization that is conducting the raffle. The Legislature, two-thirds of the membership of each house concurring, may amend the percentage of gross receipts required by this subdivision to be dedicated to beneficial or charitable purposes by means of a statute that is signed by the Governor. [As amended March 7, 2000.]

SEC. 20. [Repealed November 8, 1966. See Section 20, below.]

[Fish and Game—Districts and Commission]

SEC. 20. (a) The Legislature may provide for division of the State into fish and game districts and may protect fish and game in districts or parts of districts.

(b) There is a Fish and Game Commission of 5 members appointed by the Governor and approved by the Senate, a majority of the membership concurring, for 6-year terms and until their successors are appointed and qualified. Appointment to fill a vacancy is for the unexpired portion of the term. The Legislature may delegate to the commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. A member of the commission may be removed by concurrent resolution adopted by each house, a majority of the membership concurring. [New section adopted November 8, 1966.]

[War- or Enemy-Caused Disaster]

SEC. 21. To meet the needs resulting from war-caused or enemy-caused disaster in California, the Legislature may provide for:

(a) Filling the offices of members of the Legislature should at least one fifth of the membership of either house be killed, missing, or disabled, until they are able to perform their duties or successors are elected.

(b) Filling the office of Governor should the Governor be killed, missing, or disabled, until the Governor or the successor designated in this Constitution is able to perform the duties of the office of Governor or a successor is elected.

(c) Convening the Legislature.

(d) Holding elections to fill offices that are elective under this Constitution and that are either vacant or occupied by persons not elected thereto.

(e) Selecting a temporary seat of state or county government. [As amended November 5, 1974.]
[Accountability—Session Goals and Objectives]

SEC. 22. It is the right of the people to hold their legislators accountable. To assist the people in exercising this right, at the convening of each regular session of the Legislature, the President pro Tempore of the Senate, the Speaker of the Assembly, and the minority leader of each house shall report to their house the goals and objectives of that house during that session and, at the close of each regular session, the progress made toward meeting those goals and objectives. [New section adopted June 5, 1990.]

SEC. 22a. [Repealed November 8, 1966.]

SEC. 23. [Renumbered Section 9 of Article II June 8, 1976.]

SEC. 23a. [Repealed November 8, 1966.]

SEC. 23b. [Repealed November 8, 1966.]

SEC. 24. [Renumbered Section 10 of Article II June 8, 1976.]

SEC. 25. [Renumbered Section 11 of Article II June 8, 1976.]

SEC. 25a. [Repealed November 8, 1966.]

SEC. 25½. [Repealed November 8, 1966.]

SEC. 25¾. [Renumbered Section 22 of Article XIII and amended November 8, 1966.]

SEC. 25¾a. [Renumbered Section 25.7 and amended November 6, 1962.]

SEC. 25.7. [Repealed November 8, 1966.]

SEC. 26. [Renumbered Section 12 of Article II June 8, 1976.]

SEC. 27. [Repealed June 3, 1980.]

[State Capitol Maintenance—Appropriations]

SEC. 28. (a) Notwithstanding any other provision of this Constitution, no bill shall take effect as an urgency statute if it authorizes or contains an appropriation for either (1) the alteration or modification of the color, detail, design, structure or fixtures of the historically restored areas of the first, second, and third floors and the exterior of the west wing of the State Capitol from that existing upon the completion of the project of restoration or rehabilitation of the building conducted pursuant to Section 9124 of the Government Code as such section read upon the effective date of this section, or (2) the purchase of furniture of different design to replace that restored, replicated, or designed to conform to the historic period of the historically restored areas specified above, including the legislators’ chairs and desks in the Senate and Assembly Chambers.

(b) No expenditures shall be made in payment for any of the purposes described in subdivision (a) of this section unless funds are appropriated expressly for such purposes.
This section shall not apply to appropriations or expenditures for ordinary repair and maintenance of the State Capitol building, fixtures and furniture. [New Section adopted June 3, 1980.]

SEC. 29. [Renumbered Section 23 of Article XIII and amended November 8, 1966.]

SEC. 30. [Renumbered Section 24 of Article XIII and amended November 8, 1966.]

SEC. 31. [Renumbered Section 25 of Article XIII and amended November 8, 1966.]

SEC. 31a. [Renumbered Section 26 of Article XIII and amended November 8, 1966.]

SEC. 31b. [As adopted by Assembly Constitutional Amendment 14 of 1931, repealed November 6, 1956.]

SEC. 31b. [As adopted November 8, 1932, renumbered Section 27 of Article XIII and amended November 8, 1966.]


SEC. 31c. [As adopted November 3, 1942, repealed November 6, 1956.]

SEC. 31d. [Repealed November 6, 1956.]

SEC. 32. [Repealed November 8, 1966.]

SEC. 33. [Repealed November 8, 1966.]

SEC. 34. [Repealed November 8, 1966.]

SEC. 34a. [Repealed November 8, 1966.]

SEC. 35. [Repealed November 8, 1966.]

SEC. 36. [Repealed November 8, 1966.]

SEC. 37. [Repealed November 8, 1966.]

SEC. 38. [Repealed November 8, 1966.]

ARTICLE V. [Repealed November 8, 1966. See Article V, below.]

ARTICLE V*

EXECUTIVE

[Executive Power Vested in Governor]

SECTION 1. The supreme executive power of this State is vested in the Governor. The Governor shall see that the law is faithfully executed. [As amended November 5, 1974.]

Sec. 2. The Governor shall be elected every fourth year at the same
time and places as members of the Assembly and hold office from the
Monday after January 1 following the election until a successor qualifies.
The Governor shall be an elector who has been a citizen of the United
States and a resident of this State for 5 years immediately preceding the
Governor’s election. The Governor may not hold other public office. No
Governor may serve more than 2 terms. [As amended November 6, 1990.
Initiative measure.]

Sec. 3. The Governor shall report to the Legislature each calendar
year on the condition of the State and may make recommendations. [As
amended November 7, 1972.]

Sec. 4. [Repealed November 8, 1966. See Section 4, below.]

Sec. 4. The Governor may require executive officers and agencies
and their employees to furnish information relating to their duties. [New
section adopted November 8, 1966.]

Sec. 5. (a) Unless the law otherwise provides, the Governor may fill
a vacancy in office by appointment until a successor qualifies.

(b) Whenever there is a vacancy in the office of the Superintendent of
Public Instruction, the Lieutenant Governor, Secretary of State, Controller,
Treasurer, or Attorney General, or on the State Board of Equalization, the
Governor shall nominate a person to fill the vacancy who shall take office
upon confirmation by a majority of the membership of the Senate and a
majority of the membership of the Assembly and who shall hold office for
the balance of the unexpired term. In the event the nominee is neither con-
firmed nor refused confirmation by both the Senate and the Assembly
within 90 days of the submission of the nomination, the nominee shall take
office as if he or she had been confirmed by a majority of the Senate and
Assembly; provided, that if such 90-day period ends during a recess of the
Legislature, the period shall be extended until the sixth day following the
day on which the Legislature reconvenes. [As amended November 2,
1976.]

Sec. 6. [Repealed November 8, 1966. See Section 6, below.]

[Executive Assignment and Agency Reorganization]

Sec. 6. Authority may be provided by statute for the Governor to as-
sign and reorganize functions among executive officers and agencies and
their employees, other than elective officers and agencies administered by elective officers. [New section adopted November 8, 1966.]

[Commander of Militia]

SEC. 7. The Governor is commander in chief of a militia that shall be provided by statute. The Governor may call it forth to execute the law. [As amended November 5, 1974.]

[Reprieves—Pardons—Commutations]

SEC. 8. (a) Subject to application procedures provided by statute, the Governor, on conditions the Governor deems proper, may grant a reprieve, pardon, and commutation, after sentence, except in case of impeachment. The Governor shall report to the Legislature each reprieve, pardon, and commutation granted, stating the pertinent facts and the reasons for granting it. The Governor may not grant a pardon or commutation to a person twice convicted of a felony except on recommendation of the Supreme Court, 4 judges concurring.

(b) No decision of the parole authority of this State with respect to the granting, denial, revocation, or suspension of parole of a person sentenced to an indeterminate term upon conviction of murder shall become effective for a period of 30 days, during which the Governor may review the decision subject to procedures provided by statute. The Governor may only affirm, modify, or reverse the decision of the parole authority on the basis of the same factors which the parole authority is required to consider. The Governor shall report to the Legislature each parole decision affirmed, modified, or reversed, stating the pertinent facts and reasons for the action. [As amended November 8, 1988.]

[Lieutenant Governor—Qualifications—Casting Vote]

SEC. 9. The Lieutenant Governor shall have the same qualifications as the Governor. The Lieutenant Governor is President of the Senate but has only a casting vote. [As amended November 5, 1974.]

[Succession]

SEC. 10. The Lieutenant Governor shall become Governor when a vacancy occurs in the office of Governor.

The Lieutenant Governor shall act as Governor during the impeachment, absence from the State, or other temporary disability of the Governor or of a Governor-elect who fails to take office.

The Legislature shall provide an order of precedence after the Lieutenant Governor for succession to the office of Governor and for the temporary exercise of the Governor’s functions.

The Supreme Court has exclusive jurisdiction to determine all questions arising under this section.
Standing to raise questions of vacancy or temporary disability is vested exclusively in a body provided by statute. [As amended November 5, 1974.]

[Other State Officers—Election—Number of Terms]

SEC. 11. The Lieutenant Governor, Attorney General, Controller, Secretary of State, and Treasurer shall be elected at the same time and places and for the same term as the Governor. No Lieutenant Governor, Attorney General, Controller, Secretary of State, or Treasurer may serve in the same office for more than 2 terms. [As amended November 6, 1990. Initiative measure.]

SEC. 12. [Repealed June 5, 1990.]

[Attorney General—Chief Law Officer]

SEC. 13. Subject to the powers and duties of the Governor, the Attorney General shall be the chief law officer of the State. It shall be the duty of the Attorney General to see that the laws of the State are uniformly and adequately enforced. The Attorney General shall have direct supervision over every district attorney and sheriff and over such other law enforcement officers as may be designated by law, in all matters pertaining to the duties of their respective offices, and may require any of said officers to make reports concerning the investigation, detection, prosecution, and punishment of crime in their respective jurisdictions as to the Attorney General may seem advisable. Whenever in the opinion of the Attorney General any law of the State is not being adequately enforced in any county, it shall be the duty of the Attorney General to prosecute any violations of law of which the superior court shall have jurisdiction, and in such cases the Attorney General shall have all the powers of a district attorney. When required by the public interest or directed by the Governor, the Attorney General shall assist any district attorney in the discharge of the duties of that office. [As amended November 5, 1974.]

[State Officers—Conflict of Interest—Prohibited Compensation—Earned Income]

SEC. 14. (a) To eliminate any appearance of a conflict with the proper discharge of his or her duties and responsibilities, no state officer may knowingly receive any salary, wages, commissions, or other similar earned income from a lobbyist or lobbying firm, as defined by the Political Reform Act of 1974, or from a person who, during the previous 12 months, has been under a contract with the state agency under the jurisdiction of the state officer. The Legislature shall enact laws that define earned income. However, earned income does not include any community property interest in the income of a spouse. Any state officer who knowingly receives any salary, wages, commissions, or other similar earned income from a lobbyist employer, as defined by the Political Reform Act of 1974,
may not, for a period of one year following its receipt, vote upon or make, participate in making, or in any way attempt to use his or her official position to influence an action or decision before the agency for which the state officer serves, other than an action or decision involving a bill described in subdivision (c) of Section 12 of Article IV, which he or she knows, or has reason to know, would have a direct and significant financial impact on the lobbyist employer and would not impact the public generally or a significant segment of the public in a similar manner. As used in this subdivision, “public generally” includes an industry, trade, or profession.

[State Officers—Honoraria]
(b) No state officer may accept any honorarium. The Legislature shall enact laws that implement this subdivision.

[State Officers—Gifts—Conflict of Interest]
(c) The Legislature shall enact laws that ban or strictly limit the acceptance of a gift by a state officer from any source if the acceptance of the gift might create a conflict of interest.

[State Officers—Prohibited Compensation or Activity]
(d) No state officer may knowingly accept any compensation for appearing, agreeing to appear, or taking any other action on behalf of another person before any state government board or agency. If a state officer knowingly accepts any compensation for appearing, agreeing to appear, or taking any other action on behalf of another person before any local government board or agency, the state officer may not, for a period of one year following the acceptance of the compensation, make, participate in making, or in any way attempt to use his or her official position to influence an action or decision before the state agency for which the state officer serves, other than an action or decision involving a bill described in subdivision (c) of Section 12 of Article IV, which he or she knows, or has reason to know, would have a direct and significant financial impact on that person and would not impact the public generally or a significant segment of the public in a similar manner. As used in this subdivision, “public generally” includes an industry, trade, or profession. However, a state officer may engage in activities involving a board or agency which are strictly on his or her own behalf, appear in the capacity of an attorney before any court or the Workers’ Compensation Appeals Board, or act as an advocate without compensation or make an inquiry for information on behalf of a person before a board or agency. This subdivision does not prohibit any action of a partnership or firm of which the state officer is a member if the state officer does not share directly or indirectly in the fee, less any expenses attributable to that fee, resulting from that action.
State Officers—Lobbying

(e) The Legislature shall enact laws that prohibit a state officer, or a secretary of an agency or director of a department appointed by the Governor, who has not resigned or retired from state service prior to January 7, 1991, from lobbying, for compensation, as governed by the Political Reform Act of 1974, before the executive branch of state government for 12 months after leaving office.

State Officer—Definition

(f) “State officer,” as used in this section, means the Governor, Lieutenant Governor, Attorney General, Controller, Insurance Commissioner, Secretary of State, Superintendent of Public Instruction, Treasurer, and member of the State Board of Equalization. [New section adopted June 5, 1990. Subdivision (b) operative December 3, 1990.]

SEC. 15. [Repealed November 8, 1966.]
SEC. 16. [Repealed November 8, 1966.]
SEC. 17. [Repealed November 8, 1966.]
SEC. 18. [Repealed November 8, 1966.]
SEC. 20. [Repealed November 8, 1966.]
SEC. 21. [Repealed November 8, 1966.]
SEC. 22. [Repealed November 8, 1966.]

ARTICLE VI. [Repealed November 8, 1966. See Article VI, below.]

ARTICLE VI*

JUDICIAL

Judicial Power Vested in Courts

SEC. 1. The judicial power of this State is vested in the Supreme Court, courts of appeal, and superior courts, all of which are courts of record. [As amended November 5, 2002.]

SEC. 1a. [Repealed November 8, 1966.]
SEC. 1b. [Repealed November 8, 1966.]
SEC. 1c. [Repealed November 8, 1966.]

Supreme Court—Composition

SEC. 2. The Supreme Court consists of the Chief Justice of California and 6 associate justices. The Chief Justice may convene the court at any time. Concurrence of 4 judges present at the argument is necessary for a judgment.

* New Article VI adopted November 8, 1966.
An acting Chief Justice shall perform all functions of the Chief Justice when the Chief Justice is absent or unable to act. The Chief Justice or, if the Chief Justice fails to do so, the court shall select an associate justice as acting Chief Justice. [As amended November 5, 1974.]

[Judicial Districts—Courts of Appeal]

Sec. 3. The Legislature shall divide the State into districts each containing a court of appeal with one or more divisions. Each division consists of a presiding justice and 2 or more associate justices. It has the power of a court of appeal and shall conduct itself as a 3-justice court. Concurrence of 2 judges present at the argument is necessary for a judgment.

An acting presiding justice shall perform all functions of the presiding justice when the presiding justice is absent or unable to act. The presiding justice or, if the presiding justice fails to do so, the Chief Justice shall select an associate justice of that division as acting presiding justice. [As amended November 5, 1974.]

[Superior Courts]

Sec. 4. In each county there is a superior court of one or more judges. The Legislature shall prescribe the number of judges and provide for the officers and employees of each superior court. If the governing body of each affected county concurs, the Legislature may provide that one or more judges serve more than one superior court.

In each superior court there is an appellate division. The Chief Justice shall assign judges to the appellate division for specified terms pursuant to rules, not inconsistent with statute, adopted by the Judicial Council to promote the independence of the appellate division. [As amended June 2, 1998.]

Sec. 4a. [Repealed November 8, 1966.]
Sec. 4b. [Repealed November 8, 1966.]
Sec. 4c. [Repealed November 8, 1966.]
Sec. 4d. [Repealed November 8, 1966.]
Sec. 4e. [Repealed November 8, 1966.]
Sec. 4½. [Repealed November 8, 1966.]
Sec. 4¾. [Repealed November 8, 1966.]
Sec. 5. [Repealed November 5, 2002.]
Sec. 5.5. [Repealed June 8, 1976.]

[Judicial Council—Membership and Powers]

Sec. 6. (a) The Judicial Council consists of the Chief Justice and one other judge of the Supreme Court, three judges of courts of appeal, 10 judges of superior courts, two nonvoting court administrators, and any other nonvoting members as determined by the voting membership of the
council, each appointed by the Chief Justice for a three-year term pursuant to procedures established by the council; four members of the State Bar appointed by its governing body for three-year terms; and one member of each house of the Legislature appointed as provided by the house.

(b) Council membership terminates if a member ceases to hold the position that qualified the member for appointment. A vacancy shall be filled by the appointing power for the remainder of the term.

(c) The council may appoint an Administrative Director of the Courts, who serves at its pleasure and performs functions delegated by the council or the Chief Justice, other than adopting rules of court administration, practice and procedure.

(d) To improve the administration of justice the council shall survey judicial business and make recommendations to the courts, make recommendations annually to the Governor and Legislature, adopt rules for court administration, practice and procedure, and perform other functions prescribed by statute. The rules adopted shall not be inconsistent with statute.

(e) The Chief Justice shall seek to expedite judicial business and to equalize the work of judges. The Chief Justice may provide for the assignment of any judge to another court but only with the judge’s consent if the court is of lower jurisdiction. A retired judge who consents may be assigned to any court.

(f) Judges shall report to the council as the Chief Justice directs concerning the condition of judicial business in their courts. They shall cooperate with the council and hold court as assigned. [As amended November 5, 2002.]

SEC. 7. [Repealed November 8, 1966. See Section 7, below.]

[Commission on Judicial Appointments—Membership]

SEC. 7. The Commission on Judicial Appointments consists of the Chief Justice, the Attorney General, and the presiding justice of the court of appeal of the affected district or, if there are 2 or more presiding justices, the one who has presided longest or, when a nomination or appointment to the Supreme Court is to be considered, the presiding justice who has presided longest on any court of appeal. [New section adopted November 8, 1966.]

[Commission on Judicial Performance—Membership]

SEC. 8. (a) The Commission on Judicial Performance consists of one judge of a court of appeal two judges of superior courts, each appointed by the Supreme Court; two members of the State Bar of California who have practiced law in this State for 10 years, each appointed by the Governor; and six citizens who are not judges, retired judges, or members of the State Bar of California, two of whom shall be appointed by the Governor, two
by the Senate Committee on Rules, and two by the Speaker of the Assembly. Except as provided in subdivisions (b) and (c), all terms are for four years. No member shall serve more than two four-year terms, or for more than a total of 10 years if appointed to fill a vacancy.

(b) Commission membership terminates if a member ceases to hold the position that qualified the member for appointment. A vacancy shall be filled by the appointing power for the remainder of the term. A member whose term has expired may continue to serve until the vacancy has been filled by the appointing power. Appointing powers may appoint members who are already serving on the commission prior to March 1, 1995, to a single two-year term, but may not appoint them to an additional term thereafter.

(c) To create staggered terms among the members of the Commission on Judicial Performance, the following members shall be appointed, as follows:

(1) Two members appointed by the Supreme Court to a term commencing March 1, 1995, shall each serve a term of two years and may be reappointed to one full term.

(2) One attorney appointed by the Governor to a term commencing March 1, 1995, shall serve a term of two years and may be reappointed to one full term.

(3) One citizen member appointed by the Governor to a term commencing March 1, 1995, shall serve a term of two years and may be reappointed to one full term.

(4) One member appointed by the Senate Committee on Rules to a term commencing March 1, 1995, shall serve a term of two years and may be reappointed to one full term.

(5) One member appointed by the Speaker of the Assembly to a term commencing March 1, 1995, shall serve a term of two years and may be reappointed to one full term.

(6) All other members shall be appointed to full four-year terms commencing March 1, 1995. [As amended November 5, 2002.]

SEC. 9. [Repealed November 8, 1966. See Section 9, below.]

[State Bar]

SEC. 9. The State Bar of California is a public corporation. Every person admitted and licensed to practice law in this State is and shall be a member of the State Bar except while holding office as a judge of a court of record. [New section adopted November 8, 1966.]

SEC. 10. [Repealed November 8, 1966. See Section 10, below.]

[Jurisdiction—Original]

SEC. 10. The Supreme Court, courts of appeal, superior courts, and their judges have original jurisdiction in habeas corpus proceedings.
Those courts also have original jurisdiction in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition. The appellate division of the superior court has original jurisdiction in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition directed to the superior court in causes subject to its appellate jurisdiction.

Superior courts have original jurisdiction in all other causes.

The court may make any comment on the evidence and the testimony and credibility of any witness as in its opinion is necessary for the proper determination of the cause. [As amended November 5, 2002.]

Sec. 10a. [Repealed November 8, 1966.]

Sec. 10b. [Repealed November 8, 1966.]

Sec. 11. (a) The Supreme Court has appellate jurisdiction when judgment of death has been pronounced. With that exception courts of appeal have appellate jurisdiction when superior courts have original jurisdiction in causes of a type within the appellate jurisdiction of the courts of appeal on June 30, 1995, and in other causes prescribed by statute. When appellate jurisdiction in civil causes is determined by the amount in controversy, the Legislature may change the appellate jurisdiction of the courts of appeal by changing the jurisdictional amount in controversy.

(b) Except as provided in subdivision (a), the appellate division of the superior court has appellate jurisdiction in causes prescribed by statute.

(c) The Legislature may permit courts exercising appellate jurisdiction to take evidence and make findings of fact when jury trial is waived or not a matter of right. [As amended June 2, 1998.]

Sec. 12. (a) The Supreme Court may, before decision, transfer to itself a cause in a court of appeal. It may, before decision, transfer a cause from itself to a court of appeal or from one court of appeal or division to another. The court to which a cause is transferred has jurisdiction.

(b) The Supreme Court may review the decision of a court of appeal in any cause.

(c) The Judicial Council shall provide, by rules of court, for the time and procedure for transfer and for review, including, among other things, provisions for the time and procedure for transfer with instructions, for review of all or part of a decision, and for remand as improvidently granted.

(d) This section shall not apply to an appeal involving a judgment of death. [As amended November 6, 1984. Operative May 6, 1985.]
SEC. 13. No judgment shall be set aside, or new trial granted, in any
cause, on the ground of misdirection of the jury, or of the improper ad-
mission or rejection of evidence, or for any error as to any matter of plead-
ing, or for any error as to any matter of procedure, unless, after an exami-
nation of the entire cause, including the evidence, the court shall be of the
opinion that the error complained of has resulted in a miscarriage of jus-
tice. [New section adopted November 8, 1966.]

SEC. 14. [Repealed November 8, 1966. See Section 14, below.]

Supreme Court and Appellate Court—Published Opinions

SEC. 14. The Legislature shall provide for the prompt publication of
such opinions of the Supreme Court and courts of appeal as the Supreme
Court deems appropriate, and those opinions shall be available for publi-
cation by any person.

Decisions of the Supreme Court and courts of appeal that determine
causes shall be in writing with reasons stated. [New section adopted No-
vember 8, 1966.]

Judges—Eligibility

SEC. 15. A person is ineligible to be a judge of a court of record unless
for 10 years immediately preceding selection, the person has been a mem-
ber of the State Bar or served as a judge of a court of record in this State.
[As amended November 5, 2002.]

SEC. 15.5. [Repealed January 1, 1995.]

Judges—Elections—Terms—Vacancies

SEC. 16. (a) Judges of the Supreme Court shall be elected at large and
judges of courts of appeal shall be elected in their districts at general elec-
tions at the same time and places as the Governor. Their terms are 12 years
beginning the Monday after January 1 following their election, except that
a judge elected to an unexpired term serves the remainder of the term. In
creating a new court of appeal district or division the Legislature shall pro-
vide that the first elective terms are 4, 8, and 12 years.

(b) Judges of superior courts shall be elected in their counties at general
elections except as otherwise necessary to meet the requirements of fed-
eral law. In the latter case the Legislature, by two-thirds vote of the mem-
bership of each house thereof, with the advice of judges within the affected
court, may provide for their election by the system prescribed in subdivi-
dion (d), or by any other arrangement. The Legislature may provide that an
unopposed incumbent’s name not appear on the ballot.

(c) Terms of judges of superior courts are six years beginning the Mon-
day after January 1 following their election. A vacancy shall be filled by
election to a full term at the next general election after the second January 1 following the vacancy, but the Governor shall appoint a person to fill the vacancy temporarily until the elected judge’s term begins.

(d) (1) Within 30 days before August 16 preceding the expiration of the judge’s term, a judge of the Supreme Court or a court of appeal may file a declaration of candidacy to succeed to the office presently held by the judge. If the declaration is not filed, the Governor before September 16 shall nominate a candidate. At the next general election, only the candidate so declared or nominated may appear on the ballot, which shall present the question whether the candidate shall be elected. The candidate shall be elected upon receiving a majority of the votes on the question. A candidate not elected may not be appointed to that court but later may be nominated and elected.

(2) The Governor shall fill vacancies in those courts by appointment. An appointee holds office until the Monday after January 1 following the first general election at which the appointee had the right to become a candidate or until an elected judge qualifies. A nomination or appointment by the Governor is effective when confirmed by the Commission on Judicial Appointments.

(3) Electors of a county, by majority of those voting and in a manner the Legislature shall provide, may make this system of selection applicable to judges of superior courts. [As amended November 5, 2002.]

[Judges—Restrictions, Other Employment, and Benefits]

SEC. 17. A judge of a court of record may not practice law and during the term for which the judge was selected is ineligible for public employment or public office other than judicial employment or judicial office, except a judge of a court of record may accept a part-time teaching position that is outside the normal hours of his or her judicial position and that does not interfere with the regular performance of his or her judicial duties while holding office. A judge of a trial court of record may, however, become eligible for election to other public office by taking a leave of absence without pay prior to filing a declaration of candidacy. Acceptance of the public office is a resignation from the office of judge.

A judicial officer may not receive fines or fees for personal use.

A judicial officer may not earn retirement service credit from a public teaching position while holding judicial office. [As amended November 8, 1988.]

[Judges—Discipline]

SEC. 18. (a) A judge is disqualified from acting as a judge, without loss of salary, while there is pending (1) an indictment or an information charging the judge in the United States with a crime punishable as a felony
under California or federal law, or (2) a petition to the Supreme Court to review a determination by the Commission on Judicial Performance to remove or retire a judge.

(b) The Commission on Judicial Performance may disqualify a judge from acting as a judge, without loss of salary, upon notice of formal proceedings by the commission charging the judge with judicial misconduct or disability.

(c) The Commission on Judicial Performance shall suspend a judge from office without salary when in the United States the judge pleads guilty or no contest or is found guilty of a crime punishable as a felony under California or federal law or of any other crime that involves moral turpitude under that law. If the conviction is reversed, suspension terminates, and the judge shall be paid the salary for the judicial office held by the judge for the period of suspension. If the judge is suspended and the conviction becomes final, the Commission on Judicial Performance shall remove the judge from office.

(d) Except as provided in subdivision (f), the Commission on Judicial Performance may (1) retire a judge for disability that seriously interferes with the performance of the judge’s duties and is or is likely to become permanent, or (2) censure a judge or former judge or remove a judge for action occurring not more than 6 years prior to the commencement of the judge’s current term or of the former judge’s last term that constitutes willful misconduct in office, persistent failure or inability to perform the judge’s duties, habitual intemperance in the use of intoxicants or drugs, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or (3) publicly or privately admonish a judge or former judge found to have engaged in an improper action or dereliction of duty. The commission may also bar a former judge who has been censured from receiving an assignment, appointment, or reference of work from any California state court. Upon petition by the judge or former judge, the Supreme Court may, in its discretion, grant review of a determination by the commission to retire, remove, censure, admonish, or disqualify pursuant to subdivision (b) a judge or former judge. When the Supreme Court reviews a determination of the commission, it may make an independent review of the record. If the Supreme Court has not acted within 120 days after granting the petition, the decision of the commission shall be final.

(e) A judge retired by the commission shall be considered to have retired voluntarily. A judge removed by the commission is ineligible for judicial office, including receiving an assignment, appointment, or reference of work from any California state court, and pending further order of the court is suspended from practicing law in this State. The State Bar may in-
stitute appropriate attorney disciplinary proceedings against any judge who retires or resigns from office with judicial disciplinary charges pending.

(f) A determination by the Commission on Judicial Performance to admonish or censure a judge or former judge of the Supreme Court or remove or retire a judge of the Supreme Court shall be reviewed by a tribunal of 7 court of appeal judges selected by lot.

(g) No court, except the Supreme Court, shall have jurisdiction in a civil action or other legal proceeding of any sort brought against the commission by a judge. Any request for injunctive relief or other provisional remedy shall be granted or denied within 90 days of the filing of the request for relief. A failure to comply with the time requirements of this section does not affect the validity of commission proceedings.

(h) Members of the commission, the commission staff, and the examiners and investigators employed by the commission shall be absolutely immune from suit for all conduct at any time in the course of their official duties. No civil action may be maintained against a person, or adverse employment action taken against a person, by any employer, public or private, based on statements presented by the person to the commission.

(i) The Commission on Judicial Performance shall make rules implementing this section, including, but not limited to, the following:

(1) The commission shall make rules for the investigation of judges. The commission may provide for the confidentiality of complaints to and investigations by the commission.

(2) The commission shall make rules for formal proceedings against judges when there is cause to believe there is a disability or wrongdoing within the meaning of subdivision (d).

(j) When the commission institutes formal proceedings, the notice of charges, the answer, and all subsequent papers and proceedings shall be open to the public for all formal proceedings instituted after February 28, 1995.

(k) The commission may make explanatory statements.

(l) The budget of the commission shall be separate from the budget of any other state agency or court.

(m) The Supreme Court shall make rules for the conduct of judges, both on and off the bench, and for judicial candidates in the conduct of their campaigns. These rules shall be referred to as the Code of Judicial Ethics. [As amended November 8, 1994. Operative March 1, 1995.]

Subordinate Judicial Officers—Discipline

SEC. 18.1. The Commission on Judicial Performance shall exercise discretionary jurisdiction with regard to the oversight and discipline of subordinate judicial officers, according to the same standards, and subject to review upon petition to the Supreme Court, as specified in Section 18.
No person who has been found unfit to serve as a subordinate judicial officer after a hearing before the Commission on Judicial Performance shall have the requisite status to serve as a subordinate judicial officer.

This section does not diminish or eliminate the responsibility of a court to exercise initial jurisdiction to discipline or dismiss a subordinate judicial officer as its employee. [New section adopted June 2, 1998.]

[Disciplined Judge Under Consideration for Judicial Appointment]

**SEC. 18.5.** (a) Upon request, the Commission on Judicial Performance shall provide to the Governor of any State of the Union the text of any private admonishment, advisory letter, or other disciplinary action together with any information that the Commission on Judicial Performance deems necessary to a full understanding of the commission’s action, with respect to any applicant whom the Governor of any State of the Union indicates is under consideration for any judicial appointment.

(b) Upon request, the Commission on Judicial Performance shall provide the President of the United States the text of any private admonishment, advisory letter, or other disciplinary action together with any information that the Commission on Judicial Performance deems necessary to a full understanding of the commission’s action, with respect to any applicant whom the President indicates is under consideration for any federal judicial appointment.

(c) Upon request, the Commission on Judicial Performance shall provide the Commission on Judicial Appointments the text of any private admonishment, advisory letter, or other disciplinary action together with any information that the Commission on Judicial Performance deems necessary to a full understanding of the commission action, with respect to any applicant whom the Commission on Judicial Appointments indicates is under consideration for any judicial appointment.

(d) All information released under this section shall remain confidential and privileged.

(e) Notwithstanding subdivision (d), any information released pursuant to this section shall also be provided to the applicant about whom the information was requested.

(f) “Private admonishment” refers to a disciplinary action against a judge by the Commission on Judicial Performance as authorized by subdivision (c) of Section 18 of Article VI, as amended November 8, 1988. [New section adopted November 8, 1994. Operative March 1, 1995.]

[Judges—Compensation]

**SEC. 19.** The Legislature shall prescribe compensation for judges of courts of record.
A judge of a court of record may not receive the salary for the judicial office held by the judge while any cause before the judge remains pending and undetermined for 90 days after it has been submitted for decision. [As amended November 5, 1974.]

SEC. 20. [Repealed November 8, 1966. See Section 20, below.]

[Judges—Retirement—Disability]

SEC. 20. The Legislature shall provide for retirement, with reasonable allowance, of judges of courts of record for age or disability. [New section adopted November 8, 1966.]

SEC. 21. [Repealed November 8, 1966. See Section 21, below.]

[Temporary Judges]

SEC. 21. On stipulation of the parties litigant the court may order a cause to be tried by a temporary judge who is a member of the State Bar, sworn and empowered to act until final determination of the cause. [New section adopted November 8, 1966.]

[Appointment of Officers—Subordinate Judicial Duties]

SEC. 22. The Legislature may provide for the appointment by trial courts of record of officers such as commissioners to perform subordinate judicial duties. [New section adopted November 8, 1966.]

SEC. 23. [Repealed November 8, 1966. See Section 23, below.]

[Superior and Municipal Court Consolidation]

SEC. 23. (a) The purpose of the amendments to Sections 1, 4, 5, 6, 8, 10, 11, and 16, of this article, and the amendments to Section 16 of Article I, approved at the June 2, 1998, primary election is to permit the Legislature to provide for the abolition of the municipal courts and unify their operations within the superior courts. Notwithstanding Section 8 of Article IV, the implementation of, and orderly transition under, the provisions of the measure adding this section may include urgency statutes that create or abolish offices or change the salaries, terms, or duties of offices, or grant franchises or special privileges, or create vested rights or interests, where otherwise permitted under this Constitution.

(b) When the superior and municipal courts within a county are unified, the judgeships in each municipal court in that county are abolished and the previously selected municipal court judges shall become judges of the superior court in that county. The term of office of a previously selected municipal court judge is not affected by taking office as a judge of the superior court. The 10-year membership or service requirement of Section 15 does not apply to a previously selected municipal court judge. Pursuant to Section 6, the Judicial Council may prescribe appropriate education and training for judges with regard to trial court unification.
(c) Except as provided by statute to the contrary, in any county in which the superior and municipal courts become unified, the following shall occur automatically in each preexisting superior and municipal court:

1. Previously selected officers, employees, and other personnel who serve the court become the officers and employees of the superior court.
2. Preexisting court locations are retained as superior court locations.
3. Preexisting court records become records of the superior court.
4. Pending actions, trials, proceedings, and other business of the court become pending in the superior court under the procedures previously applicable to the matters in the court in which the matters were pending.
5. Matters of a type previously within the appellate jurisdiction of the superior court remain within the jurisdiction of the appellate division of the superior court.
6. Matters of a type previously subject to rehearing by a superior court judge remain subject to rehearing by a superior court judge, other than the judge who originally heard the matter.
7. Penal Code procedures that necessitate superior court review of, or action based on, a ruling or order by a municipal court judge shall be performed by a superior court judge other than the judge who originally made the ruling or order.

(d) This section shall remain in effect only until January 1, 2007, and as of that date is repealed. [As amended and repealed November 5, 2002. Repealed on January 1, 2007.]

SEC. 24. [Repealed November 8, 1966.]
SEC. 26. [Repealed November 8, 1966.]

ARTICLE VII*
PUBLIC OFFICERS AND EMPLOYEES

[Civil Service]

SECTION 1. (a) The civil service includes every officer and employee of the State except as otherwise provided in this Constitution.

(b) In the civil service permanent appointment and promotion shall be made under a general system based on merit ascertained by competitive examination. [New section adopted June 8, 1976.]

[Personnel Board—Membership and Compensation]

SEC. 2. (a) There is a Personnel Board of 5 members appointed by the Governor and approved by the Senate, a majority of the membership concurring, for 10-year terms and until their successors are appointed and qualified. Appointment to fill a vacancy is for the unexpired portion of the

* New Article VII adopted June 8, 1976.
(b) The board annually shall elect one of its members as presiding officer.

c (c) The board shall appoint and prescribe compensation for an executive officer who shall be a member of the civil service but not a member of the board. [New section adopted June 8, 1976.]

[Personnel Board—Duties]

SEC. 3. (a) The board shall enforce the civil service statutes and, by majority vote of all its members, shall prescribe probationary periods and classifications, adopt other rules authorized by statute, and review disciplinary actions.

(b) The executive officer shall administer the civil service statutes under rules of the board. [New section adopted June 8, 1976.]

[Exempt Positions]

SEC. 4. The following are exempt from civil service:

(a) Officers and employees appointed or employed by the Legislature, either house, or legislative committees.

(b) Officers and employees appointed or employed by councils, commissions or public corporations in the judicial branch or by a court of record or officer thereof.

(c) Officers elected by the people and a deputy and an employee selected by each elected officer.

(d) Members of boards and commissions.

(e) A deputy or employee selected by each board or commission either appointed by the Governor or authorized by statute.

(f) State officers directly appointed by the Governor with or without the consent or confirmation of the Senate and the employees of the Governor’s office, and the employees of the Lieutenant Governor’s office directly appointed or employed by the Lieutenant Governor.

(g) A deputy or employee selected by each officer, except members of boards and commissions, exempted under Section 4(f).

(h) Officers and employees of the University of California and the California State Colleges.

(i) The teaching staff of schools under the jurisdiction of the Department of Education or the Superintendent of Public Instruction.

(j) Member, inmate, and patient help in state homes, charitable or correctional institutions, and state facilities for mentally ill or retarded persons.

(k) Members of the militia while engaged in military service.

(l) Officers and employees of district agricultural associations employed less than 6 months in a calendar year.
(m) In addition to positions exempted by other provisions of this section, the Attorney General may appoint or employ six deputies or employees, the Public Utilities Commission may appoint or employ one deputy or employee, and the Legislative Counsel may appoint or employ two deputies or employees. [New section adopted June 8, 1976.]

[Temporary Appointments]
SEC. 5. A temporary appointment may be made to a position for which there is no employment list. No person may serve in one or more positions under temporary appointment longer than 9 months in 12 consecutive months. [New section adopted June 8, 1976.]

[Veterans’ Preferences—Special Rules]
SEC. 6. (a) The Legislature may provide preferences for veterans and their surviving spouses.
(b) The board by special rule may permit persons in exempt positions, brought under civil service by constitutional provision, to qualify to continue in their positions.
(c) When the State undertakes work previously performed by a county, city, public district of this State or by a federal department or agency, the board by special rule shall provide for persons who previously performed this work to qualify to continue in their positions in the state civil service subject to such minimum standards as may be established by statute. [New section adopted June 8, 1976.]

[Dual Office Holding]
SEC. 7. A person holding a lucrative office under the United States or other power may not hold a civil office of profit. A local officer or postmaster whose compensation does not exceed 500 dollars per year or an officer in the militia or a member of a reserve component of the armed forces of the United States except where on active federal duty for more than 30 days in any year is not a holder of a lucrative office, nor is the holding of a civil office of profit affected by this military service. [New section adopted June 8, 1976.]

[Disqualification From Holding Office or Serving on Jury—Free Suffrage]
SEC. 8. (a) Every person shall be disqualified from holding any office of profit in this State who shall have been convicted of having given or offered a bribe to procure personal election or appointment.
(b) Laws shall be made to exclude persons convicted of bribery, perjury, forgery, malfeasance in office, or other high crimes from office or serving on juries. The privilege of free suffrage shall be supported by laws regulating elections and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice. [New section adopted June 8, 1976.]
[Persons or Organizations Advocating Overthrow of Government]

SEC. 9. Notwithstanding any other provision of this Constitution, no person or organization which advocates the overthrow of the Government of the United States or the State by force or violence or other unlawful means or who advocates the support of a foreign government against the United States in the event of hostilities shall:

(a) Hold any office or employment under this State, including but not limited to the University of California, or with any county, city or county, city, district, political subdivision, authority, board, bureau, commission or other public agency of this State; or

(b) Receive any exemption from any tax imposed by this State or any county, city or county, city, district, political subdivision, authority, board, bureau, commission or other public agency of this State.

The Legislature shall enact such laws as may be necessary to enforce the provisions of this section. [New section adopted June 8, 1976.]

[Elected Officials—Disqualification for Libelous or Slanderous Campaign Statements]

SEC. 10. (a) No person who is found liable in a civil action for making libelous or slanderous statements against an opposing candidate during the course of an election campaign for any federal, statewide, Board of Equalization, or legislative office or for any county, city and county, city, district, or any other local elective office shall retain the seat to which he or she is elected, where it is established that the libel or slander was a major contributing cause in the defeat of an opposing candidate.

A libelous or slanderous statement shall be deemed to have been made by a person within the meaning of this section if that person actually made the statement or if the person actually or constructively assented to, authorized, or ratified the statement.

"Federal office," as used in this section means the office of United States Senator and Member of the House of Representatives; and to the extent that the provisions of this section do not conflict with any provision of federal law, it is intended that candidates seeking the office of United States Senator or Member of the House of Representatives comply with this section.

(b) In order to determine whether libelous or slanderous statements were a major contributing cause in the defeat of an opposing candidate, the trier of fact shall make a separate, distinct finding on that issue. If the trier of fact finds that libel or slander was a major contributing cause in the defeat of an opposing candidate and that the libelous or slanderous statement was made with knowledge that it was false or with reckless disregard of
whether it was false or true, the person holding office shall be disqualified 
from or shall forfeit that office as provided in subdivision (d). The findings 
required by this section shall be in writing and shall be incorporated as part 
of the judgment.

(c) In a case where a person is disqualified from holding office or is re-
quired to forfeit an office under subdivisions (a) and (b), that disqualifi-
cation or forfeiture shall create a vacancy in office, which vacancy shall be 
filled in the manner provided by law for the filling of a vacancy in that par-
ticular office.

d) Once the judgment of liability is entered by the trial court and the 
time for filing a notice of appeal has expired, or all possibility of direct 
attack in the courts of this State has been finally exhausted, the person 
shall be disqualified from or shall forfeit the office involved in that elec-
tion and shall have no authority to exercise the powers or perform the du-
ties of the office.

(e) This section shall apply to libelous or slanderous statements made 
on or after the effective date of this section. [New section adopted June 5, 
1984.]

[Legislators’ and Judges’ Retirement Systems]

SEC. 11. (a) The Legislators’ Retirement System shall not pay any 
unmodified retirement allowance or its actuarial equivalent to any person 
who on or after January 1, 1987, entered for the first time any state office 
for which membership in the Legislators’ Retirement System was elective 
or to any beneficiary or survivor of such a person, which exceeds the 
higher of (1) the salary receivable by the person currently serving in the 
office in which the retired person served or (2) the highest salary that was 
received by the retired person while serving in that office.

(b) The Judges’ Retirement System shall not pay any unmodified re-
tirement allowance or its actuarial equivalent to any person who on or after 
January 1, 1987, entered for the first time any judicial office subject to the 
Judges’ Retirement System or to any beneficiary or survivor of such a per-
ton, which exceeds the higher of (1) the salary receivable by the person 
currently serving in the judicial office in which the retired person served 
or (2) the highest salary that was received by the retired person while serv-
ing in that judicial office.

(c) The Legislature may define the terms used in this section.

(d) If any part of this measure or the application to any person or cir-
cumstance is held invalid, the invalidity shall not affect other provisions or 
aplications which reasonably can be given effect without the invalid pro-
vision or application. [As amended November 6, 1990. Initiative measure.]
ARTICLE IX

EDUCATION

[Legislative Policy]

SECTION 1. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the Legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement.

[Superintendent of Public Instruction—Election—Date of Office—Number of Terms]

SEC. 2. A Superintendent of Public Instruction shall be elected by the qualified electors of the State at each gubernatorial election. The Superintendent of Public Instruction shall enter upon the duties of the office on the first Monday after the first day of January next succeeding each gubernatorial election. No Superintendent of Public Instruction may serve more than 2 terms. [As amended November 6, 1990. Initiative measure.]

[Deputy and Associate Superintendents of Public Instruction]

SEC. 2.1. The State Board of Education, on nomination of the Superintendent of Public Instruction, shall appoint one Deputy Superintendent of Public Instruction and three Associate Superintendents of Public Instruction who shall be exempt from state civil service and whose terms of office shall be four years.

This section shall not be construed as prohibiting the appointment, in accordance with law, of additional Associate Superintendents of Public Instruction subject to state civil service. [New section adopted November 5, 1946.]

[County Superintendents of Schools]

SEC. 3. A Superintendent of Schools for each county may be elected by the qualified electors thereof at each gubernatorial election or may be appointed by the county board of education, and the manner of the selection shall be determined by a majority vote of the electors of the county voting on the question; provided, that two or more counties may, by an election conducted pursuant to Section 3.2 of this article, unite for the purpose of electing or appointing one joint superintendent for the counties so uniting. [As amended November 2, 1976.]
SEC. 3.1. (a) Notwithstanding any provision of this Constitution to the contrary, the Legislature shall prescribe the qualifications required of county superintendents of schools, and for these purposes shall classify the several counties in the State.

(b) Notwithstanding any provision of this Constitution to the contrary, the county board of education or joint county board of education, as the case may be, shall fix the salary of the county superintendent of schools or the joint county superintendent of schools, respectively. [As amended November 2, 1976.]

SEC. 3.2. Notwithstanding any provision of this Constitution to the contrary, any two or more chartered counties, or nonchartered counties, or any combination thereof, may, by a majority vote of the electors of each such county voting on the proposition at an election called for that purpose in each such county, establish one joint board of education and one joint county superintendent of schools for the counties so uniting. A joint county board of education and a joint county superintendent of schools shall be governed by the general statutes and shall not be governed by the provisions of any county charter. [New section adopted November 2, 1976.]

SEC. 3.3. Except as provided in Section 3.2 of this article, it shall be competent to provide in any charter framed for a county under any provision of this Constitution, or by the amendment of any such charter, for the election of the members of the county board of education of such county and for their qualifications and terms of office. [As amended November 2, 1976.]

SEC. 4. [Repealed November 3, 1964.]

SEC. 5. The Legislature shall provide for a system of common schools by which a free school shall be kept up and supported in each district at least six months in every year, after the first year in which a school has been established.

SEC. 6. Each person, other than a substitute employee, employed by a school district as a teacher or in any other position requiring certification qualifications shall be paid a salary which shall be at the rate of an annual salary of not less than twenty-four hundred dollars ($2,400) for a person serving full time, as defined by law.
The Public School System shall include all kindergarten schools, elementary schools, secondary schools, technical schools, and state colleges, established in accordance with law and, in addition, the school districts and the other agencies authorized to maintain them. No school or college or any other part of the Public School System shall be, directly or indirectly, transferred from the Public School System or placed under the jurisdiction of any authority other than one included within the Public School System.

The Legislature shall add to the State School Fund such other means from the revenues of the State as shall provide in said fund for apportionment in each fiscal year, an amount not less than one hundred eighty dollars ($180) per pupil in average daily attendance in the kindergarten schools, elementary schools, secondary schools, and technical schools in the Public School System during the next preceding fiscal year.

The entire State School Fund shall be apportioned in each fiscal year in such manner as the Legislature may provide, through the school districts and other agencies maintaining such schools, for the support of, and aid to, kindergarten schools, elementary schools, secondary schools, and technical schools except that there shall be apportioned to each school district in each fiscal year not less than one hundred twenty dollars ($120) per pupil in average daily attendance in the district during the next preceding fiscal year and except that the amount apportioned to each school district in each fiscal year shall be not less than twenty-four hundred dollars ($2,400).

Solely with respect to any retirement system provided for in the charter of any county or city and county pursuant to the provisions of which the contributions of, and benefits to, certificated employees of a school district who are members of such system are based upon the proportion of the salaries of such certificated employees contributed by said county or city and county, all amounts apportioned to said county or city and county, or to school districts therein, pursuant to the provisions of this section shall be considered as though derived from county or city and county school taxes for the support of county and city and county government and not money provided by the State within the meaning of this section. [As amended November 5, 1974.]

Nothing in this Constitution contained shall forbid the formation of districts for school purposes situate in more than one county or the issuance of bonds by such districts under such general laws as have been or may hereafter be prescribed by the Legislature; and the officers mentioned in such laws shall be authorized to levy and assess such taxes
and perform all such other acts as may be prescribed therein for the purpose of paying such bonds and carrying out the other powers conferred upon such districts; provided, that all such bonds shall be issued subject to the limitations prescribed in section eighteen† of article eleven hereof. [New section adopted November 7, 1922.]

[Boards of Education]

SEC. 7. The Legislature shall provide for the appointment or election of the State Board of Education and a board of education in each county or for the election of a joint county board of education for two or more counties. [As amended November 2, 1976.]

[Free Textbooks]

SEC. 7.5. The State Board of Education shall adopt textbooks for use in grades one through eight throughout the State, to be furnished without cost as provided by statute. [New section adopted June 2, 1970.]

[Sectarian Schools—Public Money—Doctrines]

SEC. 8. No public money shall ever be appropriated for the support of any sectarian or denominational school, or any school not under the exclusive control of the officers of the public schools; nor shall any sectarian or denominational doctrine be taught, or instruction thereon be permitted, directly or indirectly, in any of the common schools of this State.

[University of California]

SEC. 9. (a) The University of California shall constitute a public trust, to be administered by the existing corporation known as “The Regents of the University of California,” with full powers of organization and government, subject only to such legislative control as may be necessary to insure the security of its funds and compliance with the terms of the endowments of the university and such competitive bidding procedures as may be made applicable to the university by statute for the letting of construction contracts, sales of real property, and purchasing of materials, goods, and services. Said corporation shall be in form a board composed of seven ex officio members, which shall be: the Governor, the Lieutenant Governor, the Speaker of the Assembly, the Superintendent of Public Instruction, the president and the vice president of the alumni association of the university and the acting president of the university, and 18 appointive members appointed by the Governor and approved by the Senate, a majority of the membership concurring; provided, however that the present appointive members shall hold office until the expiration of their present terms.

† Former Section 18 of Article XI added to Article XIII as Section 40, June 2, 1970 and repealed November 5, 1974.
(b) The terms of the members appointed prior to November 5, 1974, shall be 16 years; the terms of two appointive members to expire as here- tofore on March 1st of every even-numbered calendar year, and two mem-

bers shall be appointed for terms commencing on March 1, 1976, and on March 1 of each year thereafter; provided that no such appointments shall be made for terms to commence on March 1, 1979, or on March 1 of each fourth year thereafter, to the end that no appointment to the regents for a newly commencing term shall be made during the first year of any gubernatorial term of office. The terms of the members appointed for terms commencing on and after March 1, 1976, shall be 12 years. During the pe-

riod of transition until the time when the appointive membership is com-

prised exclusively of persons serving for terms of 12 years, the total num-

ber of appointive members may exceed the numbers specified in the preceeding paragraph.

In case of any vacancy, the term of office of the appointee to fill such

vacancy, who shall be appointed by the Governor and approved by the

Senate, a majority of the membership concurring, shall be for the balance

of the term for which such vacancy exists.

(c) The members of the board may, in their discretion, following pro-

cedures established by them and after consultation with representatives of faculty and students of the university, including appropriate officers of the academic senate and student governments, appoint to the board either or both of the following persons as members with all rights of participation: a member of the faculty at a campus of the university or of another insti-
tution of higher education; a person enrolled as a student at a campus of the university for each regular academic term during his service as a mem-

ber of the board. Any person so appointed shall serve for not less than one year commencing on July 1.

(d) Regents shall be able persons broadly reflective of the economic, cultural, and social diversity of the State, including ethnic minorities and women. However, it is not intended that formulas or specific ratios be applied in the selection of regents.

(e) In the selection of the Regents, the Governor shall consult an ad-

visory committee composed as follows: The Speaker of the Assembly and two public members appointed by the Speaker, the President Pro Tempore of the Senate and two public members appointed by the Rules Committee of the Senate, two public members appointed by the Governor, the chair-

man of the regents of the university, an alumnus of the university chosen by the alumni association of the university, a student of the university chosen by the Council of Student Body Presidents, and a member of the fac-

ulty of the university chosen by the academic senate of the university. Pub-

lic members shall serve for four years, except that one each of the initially appointed members selected by the Speaker of the Assembly, the President Pro Tempore of the Senate, and the Governor shall be appointed to serve
for two years; student, alumni, and faculty members shall serve for one year and may not be regents of the university at the time of their service on the advisory committee.

(f) The Regents of the University of California shall be vested with the legal title and the management and disposition of the property of the university and of property held for its benefit and shall have the power to take and hold, either by purchase or by donation, or gift, testamentary or otherwise, or in any other manner, without restriction, all real and personal property for the benefit of the university or incidentally to its conduct; provided, however, that sales of university real property shall be subject to such competitive bidding procedures as may be provided by statute. Said corporation shall also have all the powers necessary or convenient for the effective administration of its trust, including the power to sue and to be sued, to use a seal, and to delegate to its committees or to the faculty of the university, or to others, such authority or functions as it may deem wise. The Regents shall receive all funds derived from the sale of lands pursuant to the act of Congress of July 2, 1862, and any subsequent acts amendatory thereof. The university shall be entirely independent of all political or sectarian influence and kept free therefrom in the appointment of its regents and in the administration of its affairs, and no person shall be debarred admission to any department of the university on account of race, religion, ethnic heritage, or sex.

(g) Meetings of the Regents of the University of California shall be public, with exceptions and notice requirements as may be provided by statute. [As amended November 2, 1976.]

SEC. 10. [Repealed November 5, 1974.]

SEC. 11. [Repealed November 5, 1974.]

SEC. 12. [Repealed November 5, 1974.]

SEC. 13. [Repealed November 5, 1974.]

[School District Incorporation and Organization—Governing Board Powers]

SEC. 14. The Legislature shall have power, by general law, to provide for the incorporation and organization of school districts, high school districts, and community college districts, of every kind and class, and may classify such districts.

The Legislature may authorize the governing boards of all school districts to initiate and carry on any programs, activities, or to otherwise act in any manner which is not in conflict with the laws and purposes for which school districts are established. [As amended November 7, 1972. Operative July 1, 1973.]

SEC. 15. [Repealed November 5, 1974.]
SEC. 16. (a) It shall be competent, in all charters framed under the authority given by Section 5 of Article XI, to provide, in addition to those provisions allowable by this Constitution, and by the laws of the State for the manner in which, the times at which, and the terms for which the members of boards of education shall be elected or appointed, for their qualifications, compensation and removal, and for the number which shall constitute any one of such boards.

[Charter Amendments—Approval by Voters]
(b) Notwithstanding Section 3 of Article XI, when the boundaries of a school district or community college district extend beyond the limits of a city whose charter provides for any or all of the foregoing with respect to the members of its board of education, no charter amendment effecting a change in the manner in which, the times at which, or the terms for which the members of the board of education shall be elected or appointed, for their qualifications, compensation, or removal, or for the number which shall constitute such board, shall be adopted unless it is submitted to and approved by a majority of all the qualified electors of the school district or community college district voting on the question. Any such amendment, and any portion of a proposed charter or a revised charter which would establish or change any of the foregoing provisions respecting a board of education, shall be submitted to the electors of the school district or community college district as one or more separate questions. The failure of any such separate question to be approved shall have the result of continuing in effect the applicable existing law with respect to that board of education. [As amended June 6, 1978.]

ARTICLE X*
WATER

[State’s Right of Eminent Domain]
 SECTION 1. The right of eminent domain is hereby declared to exist in the State to all frontages on the navigable waters of this State. [New section adopted June 8, 1976.]

[Conservation and Beneficial Use of Water—Riparian Rights]
 SECTION 2. It is hereby declared that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such waters is to be

* New Article X adopted June 8, 1976.
exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare. The right to water or to the use or flow of water in or from any natural stream or water course in this State is and shall be limited to such water as shall be reasonably required for the beneficial use to be served, and such right does not and shall not extend to the waste or unreasonable use or unreasonable method of use or unreasonable method of diversion of water. Riparian rights in a stream or water course attach to, but to no more than so much of the flow thereof as may be required or used consistently with this section, for the purposes for which such lands are, or may be made adaptable, in view of such reasonable and beneficial uses; provided, however, that nothing herein contained shall be construed as depriving any riparian owner of the reasonable use of water of the stream to which the owner’s land is riparian under reasonable methods of diversion and use, or as depriving any appropriator of water to which the appropriator is lawfully entitled. This section shall be self-executing, and the Legislature may also enact laws in the furtherance of the policy in this section contained. [New section adopted June 8, 1976.]

[Tidelands]

SEC. 3. All tidelands within two miles of any incorporated city, city and county, or town in this State, and fronting on the water of any harbor, estuary, bay, or inlet used for the purposes of navigation, shall be withheld from grant or sale to private persons, partnerships, or corporations; provided, however, that any such tidelands, reserved to the State solely for street purposes, which the Legislature finds and declares are not used for navigation purposes and are not necessary for such purposes may be sold to any town, city, county, city and county, municipal corporations, private persons, partnerships or corporations subject to such conditions as the Legislature determines are necessary to be imposed in connection with any such sales in order to protect the public interest. [New section adopted June 8, 1976.]

[Access to Navigable Waters]

SEC. 4. No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof. [New section adopted June 8, 1976.]
State Control of Water Use

SEC. 5. The use of all water now appropriated, or that may hereafter be appropriated, for sale, rental, or distribution, is hereby declared to be a public use, and subject to the regulation and control of the State, in the manner to be prescribed by law. [New section adopted June 8, 1976.]

Compensation for Water Use

SEC. 6. The right to collect rates or compensation for the use of water supplied to any county, city and county, or town, or the inhabitants thereof, is a franchise, and cannot be exercised except by authority of and in the manner prescribed by law. [New section adopted June 8, 1976.]

Acquisition of Real Property—Conformance to California Water Laws

SEC. 7. Whenever any agency of government, local, state, or federal, hereafter acquires any interest in real property in this State, the acceptance of the interest shall constitute an agreement by the agency to conform to the laws of California as to the acquisition, control, use, and distribution of water with respect to the land so acquired. [New section adopted June 8, 1976.]

ARTICLE X A*
WATER RESOURCES DEVELOPMENT

[Article X A has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982]

Water Rights, Water Quality, and Fish and Wildlife Resources Guaranteed and Protected

SECTION 1. The people of the State hereby provide the following guarantees and protections in this article for water rights, water quality, and fish and wildlife resources. [New section adopted November 4, 1980. Section has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982.]

Statutes for Protection of Fish and Wildlife Resources, Delta, Etc.

SEC. 2. No statute amending or repealing, or adding to, the provisions of the statute enacted by Senate Bill No. 200 † of the 1979–80 Regular Session of the Legislature which specify (1) the manner in which the State will protect fish and wildlife resources in the Sacramento-San Joaquin Delta, Suisun Marsh, and San Francisco Bay system westerly of the delta;

† Chapter 632, Statutes of 1980.
(2) the manner in which the State will protect existing water rights in the Sacramento-San Joaquin Delta; and (3) the manner in which the State will operate the State Water Resources Development System to comply with water quality standards and water quality control plans, shall become effective unless approved by the electors in the same manner as statutes amending initiative statutes are approved; except that the Legislature may, by statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring, amend or repeal, or add to, these provisions if the statute does not in any manner reduce the protection of the delta or fish and wildlife. [New section adopted November 4, 1980. Section has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982.]

[Appropriations of Water—Components of California Wild and Scenic Rivers System]

SEC. 3. No water shall be available for appropriation by storage in, or by direct diversion from, any of the components of the California Wild and Scenic Rivers System, as such system exists on January 1, 1981, where such appropriation is for export of water into another major hydrologic basin of the State, as defined in the Department of Water Resources Bulletin 160-74, unless such export is expressly authorized prior to such appropriation by: (a) an initiative statute approved by the electors, or (b) the Legislature, by statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring. [New section adopted November 4, 1980. Section has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982.]

[Statutes Amending, Repealing, or Adding to Delta Protection Act]

SEC. 4. No statute amending or repealing, or adding to, the provisions of Part 4.5 (commencing with Section 12200) of Division 6 of the Water Code (the Delta Protection Act) shall become effective unless approved by the electors in the same manner as statutes amending initiative statutes are approved; except that the Legislature may, by statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring, amend or repeal, or add to, these provisions if the statute does not in any manner reduce the protection of the delta or fish and wildlife. [New section adopted November 4, 1980. Section has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982.]

[Eminent Domain Proceedings to Acquire Water Rights or Contract Rights for Water or Water Quality Maintenance in Delta Prohibited]

SEC. 5. No public agency may utilize eminent domain proceedings to acquire water rights, which are held for uses within the Sacramento-San
Joaquin Delta as defined in Section 12220 of the Water Code, or any contract rights for water or water quality maintenance in the Delta for the purpose of exporting such water from the Delta. This provision shall not be construed to prohibit the utilization of eminent domain proceedings for the purpose of acquiring land or any other rights necessary for the construction of water facilities, including, but not limited to, facilities authorized in Chapter 8 (commencing with Section 12930) of Part 6 of Division 6 of the Water Code. [New section adopted November 4, 1980. Section has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982.]

**Actions and Proceedings**

SEC. 6. (a) The venue of any of the following actions or proceedings brought in a superior court shall be Sacramento County:

1. An action or proceeding to attack, review, set aside, void, or annul any provision of the statute enacted by Senate Bill No. 200 † of the 1979–80 Regular Session of the Legislature.

2. An action or proceeding to attack, review, set aside, void, or annul the determination made by the Director of Water Resources and the Director of Fish and Game pursuant to subdivision (a) of Section 11255 of the Water Code.

3. An action or proceeding which would have the effect of attacking, reviewing, preventing, or substantially delaying the construction, operation, or maintenance of the peripheral canal unit described in subdivision (a) of Section 11255 of the Water Code.

4. An action or proceeding to require the State Water Resources Development System to comply with subdivision (b) of Section 11460 of the Water Code.

5. An action or proceeding to require the Department of Water Resources or its successor agency to comply with the permanent agreement specified in subdivision (a) of Section 11256 of the Water Code.

6. An action or proceeding to require the Department of Water Resources or its successor agency to comply with the provisions of the contracts entered into pursuant to Section 11456 of the Water Code.

(b) An action or proceeding described in paragraph (1) of subdivision (a) shall be commenced within one year after the effective date of the statute enacted by Senate Bill No. 200 † of the 1979–80 Regular Session of the Legislature. Any other action or proceeding described in subdivision (a) shall be commenced within one year after the cause of action arises unless a shorter period is otherwise provided by statute.

(c) The superior court or a court of appeals shall give preference to the actions or proceedings described in this section over all civil actions or

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† Chapter 632, Statutes of 1980.
proceedings pending in the court. The superior court shall commence hearing any such action or proceeding within six months after the commencement of the action or proceeding, provided that any such hearing may be delayed by joint stipulation of the parties or at the discretion of the court for good cause shown. The provisions of this section shall supersede any provisions of law requiring courts to give preference to other civil actions or proceedings. The provisions of this subdivision may be enforced by mandamus.

(d) The Supreme Court shall, upon the request of any party, transfer to itself, before a decision in the court of appeal, any appeal or petition for extraordinary relief from an action or proceeding described in this section, unless the Supreme Court determines that the action or proceeding is unlikely to substantially affect (1) the construction, operation, or maintenance of the peripheral canal unit described in subdivision (a) of Section 11255 of the Water Code, (2) compliance with subdivision (b) of Section 11460 of the Water Code, (3) compliance with the permanent agreement specified in Section 11256 of the Water Code, or (4) compliance with the provisions of the contracts entered into pursuant to Section 11456 of the Water Code. The request for transfer shall receive preference on the Supreme Court’s calendar. If the action or proceeding is transferred to the Supreme Court, the Supreme Court shall commence to hear the matter within six months of the transfer unless the parties by joint stipulation request additional time or the court, for good cause shown, grants additional time.

(e) The remedy prescribed by the court for an action or proceeding described in paragraph (4), (5), or (6) of subdivision (a) shall include, but need not be limited to, compliance with subdivision (b) of Section 11460 of the Water Code, the permanent agreement specified in Section 11256 of the Water Code, or the provisions of the contracts entered into pursuant to Section 11456 of the Water Code.

(f) The Board of Supervisors of the County of Sacramento may apply to the State Board of Control for actual costs imposed by the requirements of this section upon the county, and the State Board of Control shall pay such actual costs.

(g) Notwithstanding the provisions of this section, nothing in this Article shall be construed as prohibiting the Supreme Court from exercising the transfer authority contained in Article VI, Section 12 of the Constitution. [New section adopted November 4, 1980. Section has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982.]

[State Agencies’ Exercise of Authorized Powers]

Sec. 7. State agencies shall exercise their authorized powers in a manner consistent with the protections provided by this article. [New section adopted November 4, 1980. Section has no force or effect because
Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982.

[Force or Effect of Article]

SEC. 8. This article shall have no force or effect unless Senate Bill No. 200 † of the 1979–80 Regular Session of the Legislature is enacted and takes effect. [New section adopted November 4, 1980. Section has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982.]

ARTICLE X B*

MARINE RESOURCES PROTECTION ACT OF 1990

[Title]

SECTION 1. This article shall be known and may be cited as the Marine Resources Protection Act of 1990. [New section adopted November 6, 1990. Initiative measure.]

[Definitions]

SEC. 2. (a) “District” means a fish and game district as defined in the Fish and Game Code by statute on January 1, 1990.

(b) Except as specifically provided in this article, all references to Fish and Game Code sections, articles, chapters, parts, and divisions are defined as those statutes in effect on January 1, 1990.

(c) “Ocean waters” means the waters of the Pacific Ocean regulated by the State.

(d) “Zone” means the Marine Resources Protection zone established pursuant to this article. The zone consists of the following:

(1) In waters less than 70 fathoms or within one mile, whichever is less, around the Channel Islands consisting of the Islands of San Miguel, Santa Rosa, Santa Cruz, Anacapa, San Nicolaus, Santa Barbara, Santa Catalina, and San Clemente.

(2) The area within three nautical miles offshore of the mainland coast, and the area within three nautical miles off any manmade breakwater, between a line extending due west from Point Arguello and a line extending due west from the Mexican border.

(3) In waters less than 35 fathoms between a line running 180 degrees true from Point Fermin and a line running 270 degrees true from the south jetty of Newport Harbor. [New section adopted November 6, 1990. Initiative measure.]

† Chapter 632, Statutes of 1980.

SEC. 3. (a) From January 1, 1991, to December 31, 1993, inclusive, gill nets or trammel nets may only be used in the zone pursuant to a non-transferable permit issued by the Department of Fish and Game pursuant to Section 5.

(b) On and after January 1, 1994, gill nets and trammel nets shall not be used in the zone. [New section adopted November 6, 1990. Initiative measure.]

SEC. 4. (a) Notwithstanding any other provision of law, gill nets and trammel nets may not be used to take any species of rockfish.

(b) In ocean waters north of Point Arguello on and after the effective date of this article, the use of gill nets and trammel nets shall be regulated by the provisions of Article 4 (commencing with Section 8660), Article 5 (commencing with Section 8680) and Article 6 (commencing with Section 8720) of Chapter 3 of Part 3 of Division 6 of the Fish and Game Code, or any regulation or order issued pursuant to these articles, in effect on January 1, 1990, except that as to Sections 8680, 8681, 8681.7, and 8682, and subdivisions (a) through (f), inclusive of Section 8681.5 of the Fish and Game Code, or any regulation or order issued pursuant to these sections, the provisions in effect on January 1, 1989, shall control where not in conflict with other provisions of this article, and shall be applicable to all ocean waters. Notwithstanding the provisions of this section, the Legislature shall not be precluded from imposing more restrictions on the use and/or possession of gill nets or trammel nets. The Director of the Department of Fish and Game shall not authorize the use of gill nets or trammel nets in any area where the use is not permitted even if the director makes specified findings. [New section adopted November 6, 1990. Initiative measure.]

SEC. 5. The Department of Fish and Game shall issue a permit to use a gill net or trammel net in the zone for the period specified in subdivision (a) of Section 3 to any applicant who meets both of the following requirements:

(a) Has a commercial fishing license issued pursuant to Sections 7850–7852.3 of the Fish and Game Code.

(b) Has a permit issued pursuant to Section 8681 of the Fish and Game Code and is presently the owner or operator of a vessel equipped with a gill net or trammel net. [New section adopted November 6, 1990. Initiative measure.]
SEC. 6. The Department of Fish and Game shall charge the following fees for permits issued pursuant to Section 5 pursuant to the following schedule:

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991</td>
<td>$250</td>
</tr>
<tr>
<td>1992</td>
<td>500</td>
</tr>
<tr>
<td>1993</td>
<td>1,000</td>
</tr>
</tbody>
</table>

[New section adopted November 6, 1990. Initiative measure.]

SEC. 7. (a) Within 90 days after the effective date of this section, every person who intends to seek the compensation provided in subdivision (b) shall notify the Department of Fish and Game, on forms provided by the department, of that intent. Any person who does not submit the form within that 90-day period shall not be compensated pursuant to subdivision (b). The department shall publish a list of all persons submitting the form within 120 days after the effective date of this section.

(b) After July 1, 1993, and before January 1, 1994, any person who holds a permit issued pursuant to Section 5 and operates in the zone may surrender that permit to the department and agree to permanently discontinue fishing with gill or trammel nets in the zone, for which he or she shall receive, beginning on July 1, 1993, a one time compensation which shall be based upon the average annual ex vessel value of the fish other than any species of rockfish landed by a fisherman, which were taken pursuant to a valid general gill net or trammel net permit issued pursuant to Sections 8681 and 8682 of the Fish and Game Code within the zone during the years 1983 to 1987, inclusive. The department shall verify those landings by reviewing logs and landing receipts submitted to it. Any person who is denied compensation by the department as a result of the department’s failure to verify landings may appeal that decision to the Fish and Game Commission.

(c) The State Board of Control shall, prior to the disbursement of any funds, verify the eligibility of each person seeking compensation and the amount of the compensation to be provided in order to ensure compliance with this section.

(d) Unless the Legislature enacts any required enabling legislation to implement this section on or before July 1, 1993, no compensation shall be paid under this article. [New section adopted November 6, 1990. Initiative measure.]

SEC. 8. (a) There is hereby created the Marine Resources Protection Account in the Fish and Game Preservation Fund. On and after January 1,
1991, the Department of Fish and Game shall collect any and all fees required by this article. All fees received by the department pursuant to this article shall be deposited in the account and shall be expended or encumbered to compensate persons who surrender permits pursuant to Section 7 or to provide for administration of this article. All funds received by the department during any fiscal year pursuant to this article which are not expended during that fiscal year to compensate persons as set forth in Section 7 or to provide for administration of this article shall be carried over into the following fiscal year and shall be used only for those purposes. All interest accrued from the department’s retention of fees received pursuant to this article shall be credited to the account. The accrued interest may only be expended for the purposes authorized by this article. The account shall continue in existence, and the requirement to pay fees under this article shall remain in effect, until the compensation provided in Section 7 has been fully funded or until January 1, 1995, whichever occurs first.

(b) An amount, not to exceed 15 percent of the total annual revenues deposited in the account excluding any interest accrued or any funds carried over from a prior fiscal year may be expended for the administration of this article.

(c) In addition to a valid California sportfishing license issued pursuant to Sections 7149, 7149.1 or 7149.2 of the Fish and Game Code and any applicable sport license stamp issued pursuant to the Fish and Game Code, a person taking fish from ocean waters south of a line extending due west from Point Arguello for sport purposes shall have permanently affixed to that person’s sportfishing license a marine resources protection stamp which may be obtained from the department upon payment of a fee of three dollars ($3). This subdivision does not apply to any one-day fishing license.

(d) In addition to a valid California commercial passenger fishing boat license required by Section 7920 of the Fish and Game Code, the owner of any boat or vessel who, for profit, permits any person to fish from the boat or vessel in ocean waters south of a line extending due west from Point Arguello, shall obtain and permanently affix to the license a commercial marine resources protection stamp which may be obtained from the department upon payment of a fee of three dollars ($3).

(e) The department may accept contributions or donations from any person who wishes to donate money to be used for the compensation of commercial gill net and trammel net fishermen who surrender permits under this article.

SEC. 9. Any funds remaining in the Marine Resources Protection Account in the Fish and Game Preservation Fund on or after January 1, 1995, shall, with the approval of the Fish and Game Commission, be used to provide grants to colleges, universities and other bonafide scientific research groups to fund marine resource related scientific research within the ecological reserves established by Section 14 of this act. [New section adopted November 6, 1990. Initiative measure.]

SEC. 10. On or before December 31 of each year, the Director of Fish and Game shall prepare and submit a report to the Legislature regarding the implementation of this article including an accounting of all funds. [New section adopted November 6, 1990. Initiative measure.]

SEC. 11. It is unlawful for any person to take, possess, receive, transport, purchase, sell, barter, or process any fish obtained in violation of this article. [New section adopted November 6, 1990. Initiative measure.]

SEC. 12. To increase the State’s scientific and biological information on the ocean fisheries of this State, the Department of Fish and Game shall establish a program whereby it can monitor and evaluate the daily landings of fish by commercial fishermen who are permitted under this article to take these fish. The cost of implementing this monitoring program shall be borne by the commercial fishing industry. [New section adopted November 6, 1990. Initiative measure.]

SEC. 13. (a) The penalty for a first violation of the provisions of Sections 3 and 4 of this article is a fine of not less than one thousand dollars ($1,000) and not more than five thousand dollars ($5,000) and a mandatory suspension of any license, permit or stamp to take, receive, transport, purchase, sell, barter or process fish for commercial purposes for six months. The penalty for a second or subsequent violation of the provisions of Sections 3 and 4 of this article is a fine of not less than two thousand five hundred dollars ($2,500) and not more than ten thousand dollars ($10,000) and a mandatory suspension of any license, permit or stamp to take, receive, transport, purchase, sell, barter, or process fish for commercial purposes for one year.

(b) Notwithstanding any other provisions of law, a violation of Section 8 of this article shall be deemed a violation of the provisions of Section 7145 of the Fish and Game Code and the penalty for such violation shall be consistent with the provisions of Section 12002.2 of said code.
(c) If a person convicted of a violation of Section 3, 4, or 8 of this article is granted probation, the court shall impose as a term or condition of probation, in addition to any other term or condition of probation, that the person pay at least the minimum fine prescribed in this section. [New section adopted November 6, 1990. Initiative measure.]

[New Ecological Reserves]

SEC. 14. Prior to January 1, 1994, the Fish and Game Commission shall establish four new ecological reserves in ocean waters along the mainland coast. Each ecological reserve shall have a surface area of at least two square miles. The commission shall restrict the use of these ecological reserves to scientific research relating to the management and enhancement of marine resources. [New section adopted November 6, 1990. Initiative measure.]

[Article not Preempting or Superseding Other Protective Closures]

SEC. 15. This article does not preempt or supersede any other closures to protect any other wildlife, including sea otters, whales, and shorebirds. [New section adopted November 6, 1990. Initiative measure.]

[Severability]

SEC. 16. If any provision of this article or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable. [New section adopted November 6, 1990. Initiative measure.]

ARTICLE XI. [Repealed June 2, 1970. See Article XI, below.]

ARTICLE XI*

LOCAL GOVERNMENT

[Counties—Formation, Boundaries, County Seat, Officers, and Governing Body]

SEC. 1. (a) The State is divided into counties which are legal subdivisions of the State. The Legislature shall prescribe uniform procedure for county formation, consolidation, and boundary change. Formation or consolidation requires approval by a majority of electors voting on the question in each affected county. A boundary change requires approval by the governing body of each affected county. No county seat shall be removed unless two-thirds of the qualified electors of the county, voting on the

proposition at a general election, shall vote in favor of such removal. A proposition of removal shall not be submitted in the same county more than once in four years.

(b) The Legislature shall provide for county powers, an elected county sheriff, an elected district attorney, an elected assessor, and an elected governing body in each county. Except as provided in subdivision (b) of Section 4 of this article, each governing body shall prescribe by ordinance the compensation of its members, but the ordinance prescribing such compensation shall be subject to referendum. The Legislature or the governing body may provide for other officers whose compensation shall be prescribed by the governing body. The governing body shall provide for the number, compensation, tenure, and appointment of employees. [As amended June 7, 1988.]

SEC. 2. [Repealed June 2, 1970. See Section 2, below.]

Cities—Formation, Powers

SEC. 2. (a) The Legislature shall prescribe uniform procedure for city formation and provide for city powers.

(b) Except with approval by a majority of its electors voting on the question, a city may not be annexed to or consolidated into another. [New section adopted June 2, 1970.]

County or City—Charters

SEC. 3. (a) For its own government, a county or city may adopt a charter by majority vote of its electors voting on the question. The charter is effective when filed with the Secretary of State. A charter may be amended, revised, or repealed in the same manner. A charter, amendment, revision, or repeal thereof shall be published in the official state statutes. County charters adopted pursuant to this section shall supersede any existing charter and all laws inconsistent therewith. The provisions of a charter are the law of the State and have the force and effect of legislative enactments.

(b) The governing body or charter commission of a county or city may propose a charter or revision. Amendment or repeal may be proposed by initiative or by the governing body.

(c) An election to determine whether to draft or revise a charter and elect a charter commission may be required by initiative or by the governing body.

(d) If provisions of 2 or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail. [As amended November 5, 1974.]
SEC. 4. County charters shall provide for:

(a) A governing body of 5 or more members, elected (1) by district or, (2) at large, or (3) at large, with a requirement that they reside in a district. Charter counties are subject to statutes that relate to apportioning population of governing body districts.

(b) The compensation, terms, and removal of members of the governing body. If a county charter provides for the Legislature to prescribe the salary of the governing body, such compensation shall be prescribed by the governing body by ordinance.

(c) An elected sheriff, an elected district attorney, an elected assessor, other officers, their election or appointment, compensation, terms and removal.

(d) The performance of functions required by statute.

(e) The powers and duties of governing bodies and all other county officers, and for consolidation and segregation of county officers, and for the manner of filling all vacancies occurring therein.

(f) The fixing and regulation by governing bodies, by ordinance, of the appointment and number of assistants, deputies, clerks, attachés, and other persons to be employed, and for the prescribing and regulating by such bodies of the powers, duties, qualifications, and compensation of such persons, the times at which, and terms for which they shall be appointed, and the manner of their appointment and removal.

(g) Whenever any county has framed and adopted a charter, and the same shall have been approved by the Legislature as herein provided, the general laws adopted by the Legislature in pursuance of Section 1(b) of this article, shall, as to such county, be superseded by said charter as to matters for which, under this section it is competent to make provision in such charter, and for which provision is made therein, except as herein otherwise expressly provided.

(h) Charter counties shall have all the powers that are provided by this Constitution or by statute for counties. [As amended June 7, 1988.]

SEC. 5. [Repealed June 2, 1970. See Section 5, below.]

[City Charters—Provisions]

SEC. 5. (a) It shall be competent in any city charter to provide that the city governed thereunder may make and enforce all ordinances and regulations in respect to municipal affairs, subject only to restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to general laws. City charters adopted pursuant to this Constitution shall supersede any existing charter, and with respect to municipal affairs shall supersede all laws inconsistent therewith.

(b) It shall be competent in all city charters to provide, in addition to those provisions allowable by this Constitution, and by the laws of the
State for: (1) the constitution, regulation, and government of the city police force (2) subgovernment in all or part of a city (3) conduct of city elections and (4) plenary authority is hereby granted, subject only to the restrictions of this article, to provide therein or by amendment thereto, the manner in which, the method by which, the times at which, and the terms for which the several municipal officers and employees whose compensation is paid by the city shall be elected or appointed, and for their removal, and for their compensation, and for the number of deputies, clerks and other employees that each shall have, and for the compensation, method of appointment, qualifications, tenure of office and removal of such deputies, clerks and other employees. [New section adopted June 2, 1970.]

SEC. 5.1. [Repealed June 2, 1970.]

SEC. 6. [Repealed June 2, 1970. See Section 6, below.]

[Charter City and County]

SEC. 6. (a) A county and all cities within it may consolidate as a charter city and county as provided by statute.

(b) A charter city and county is a charter city and a charter county. Its charter city powers supersede conflicting charter county powers. [New section adopted June 2, 1970.]

SEC. 7. [Repealed June 2, 1970. See Section 7, below.]

[Local Ordinances and Regulations]

SEC. 7. A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws. [New section adopted June 2, 1970.]

SEC. 7 1/2. [Repealed June 2, 1970.]

SEC. 7 1/2b. [Repealed June 2, 1970.]

[Ballot Measures—Application]

SEC. 7.5. (a) A city or county measure proposed by the legislative body of a city, charter city, county, or charter county and submitted to the voters for approval may not do either of the following:

(1) Include or exclude any part of the city, charter city, county, or charter county from the application or effect of its provisions based upon approval or disapproval of the city or county measure, or based upon the casting of a specified percentage of votes in favor of the measure, by the electors of the city, charter city, county, charter county, or any part thereof.

(2) Contain alternative or cumulative provisions wherein one or more of those provisions would become law depending upon the casting of a specified percentage of votes for or against the measure.

(b) “City or county measure,” as used in this section, means an advisory question, proposed charter or charter amendment, ordinance, propo-
sition for the issuance of bonds, or other question or proposition submitted
to the voters of a city, or to the voters of a county at an election held
throughout an entire single county. [New section adopted June 2, 1998.]

SEC. 8. [Repealed June 2, 1970. See Section 8, below.]

[Counties—Performance of Municipal Functions]

SEC. 8. (a) The Legislature may provide that counties perform mu-
nicipal functions at the request of cities within them.

(b) If provided by their respective charters, a county may agree with a
city within it to assume and discharge specified municipal functions. [New
section adopted June 2, 1970.]

SEC. 8 1⁄2. [Repealed June 2, 1970.]

[Local Utilities]

SEC. 9. (a) A municipal corporation may establish, purchase, and op-
erate public works to furnish its inhabitants with light, water, power, heat,
transportation, or means of communication. It may furnish those services
outside its boundaries, except within another municipal corporation which
furnishes the same service and does not consent.

(b) Persons or corporations may establish and operate works for sup-
plying those services upon conditions and under regulations that the city
may prescribe under its organic law. [New section adopted June 2, 1970.]

[Local Government—Extra Compensation; City, County or District
Employees—Residency]

SEC. 10. (a) A local government body may not grant extra compen-
sation or extra allowance to a public officer, public employee, or contrac-
tor after service has been rendered or a contract has been entered into and
performed in whole or in part, or pay a claim under an agreement made
without authority of law.

(b) A city or county, including any chartered city or chartered county,
or public district, may not require that its employees be residents of such
city, county, or district; except that such employees may be required to re-
side within a reasonable and specific distance of their place of employ-
ment or other designated location. [As amended June 8, 1976.]

SEC. 10.5. [Repealed June 8, 1976.]

[Private Control of County or Municipal Functions—Deposit and Investment of Public
Moneys]

SEC. 11. (a) The Legislature may not delegate to a private person or
body power to make, control, appropriate, supervise, or interfere with
county or municipal corporation improvements, money, or property, or to
levy taxes or assessments, or perform municipal functions.
(b) The Legislature may, however, provide for the deposit of public moneys in any bank in this State or in any savings and loan association in this State or any credit union in this State or in any federally insured industrial loan company in this State and for payment of interest, principal, and redemption premiums of public bonds and other evidence of public indebtedness by banks within or without this State. It may also provide for investment of public moneys in securities and the registration of bonds and other evidences of indebtedness by private persons or bodies, within or without this State, acting as trustees or fiscal agents. [As amended November 8, 1988.]

SEC. 12. [As amended June 27, 1933, added to Article XIII as Section 37, June 2, 1970. See Section 12, below.]

[Claims Against Counties or Cities, Etc.]

SEC. 12. The Legislature may prescribe procedure for presentation, consideration, and enforcement of claims against counties, cities, their officers, agents, or employees. [New section adopted June 2, 1970.]

SEC. 13. [Repealed June 2, 1970. See Section 13, below.]

[Distribution of Powers—Construction of Article]

SEC. 13. The provisions of Sections 1(b) (except for the second sentence), 3(a), 4, and 5 of this Article relating to matters affecting the distribution of powers between the Legislature and cities and counties, including matters affecting supersession, shall be construed as a restatement of all related provisions of the Constitution in effect immediately prior to the effective date of this amendment, and as making no substantive change.

The terms general law, general laws, and laws, as used in this Article, shall be construed as a continuation and restatement of those terms as used in the Constitution in effect immediately prior to the effective date of this amendment, and not as effecting a change in meaning. [New section adopted June 2, 1970.]

SEC. 13½. [As amended November 3, 1914, added to Article XIII as Section 37.5, June 2, 1970.]

[Local Government—Taxation]

SEC. 14. A local government formed after the effective date of this section, the boundaries of which include all or part of two or more counties, shall not levy a property tax unless such tax has been approved by a majority vote of the qualified voters of that local government voting on the issue of the tax. [New section adopted November 2, 1976.]
[Vehicle License Fee Allocations]

SEC. 15. (a) All revenues from taxes imposed pursuant to the Vehicle License Fee Law, or its successor, other than fees on trailer coaches and mobilehomes, over and above the costs of collection and any refunds authorized by law, shall be allocated to counties and cities according to statute.

(b) This section shall apply to those taxes imposed pursuant to that law on and after July 1 following the approval of this section by the voters. [New section adopted June 3, 1986.]

SEC. 16. [Added to Article XIII as Section 38, June 2, 1970.]

SEC. 16½. [As amended November 8, 1932, added to Article XIII as Section 39, June 2, 1970.]

SEC. 17. [Repealed June 2, 1970.]

SEC. 18. [As amended November 8, 1949, added to Article XIII as Section 40, June 2, 1970.]

SEC. 18¹⁄₄. [Repealed June 2, 1970.]

SEC. 19. [Repealed June 2, 1970.]

SEC. 20. [Repealed June 2, 1970.]

ARTICLE XII. [Repealed November 5, 1974. See Article XII, below.]

ARTICLE XII*

PUBLIC UTILITIES

[Public Utilities Commission—Composition]

SECTION 1. The Public Utilities Commission consists of 5 members appointed by the Governor and approved by the Senate, a majority of the membership concurring, for staggered 6-year terms. A vacancy is filled for the remainder of the term. The Legislature may remove a member for incompetence, neglect of duty, or corruption, two thirds of the membership of each house concurring. [New section adopted November 5, 1974.]

[Public Utilities Commission—Powers and Duties]

SEC. 2. Subject to statute and due process, the commission may establish its own procedures. Any commissioner as designated by the commission may hold a hearing or investigation or issue an order subject to commission approval. [New section adopted November 5, 1974.]

* New Article XII adopted November 5, 1974.
SEC. 3. Private corporations and persons that own, operate, control, or manage a line, plant, or system for the transportation of people or property, the transmission of telephone and telegraph messages, or the production, generation, transmission, or furnishing of heat, light, water, power, storage, or wharfage directly or indirectly to or for the public, and common carriers, are public utilities subject to control by the Legislature. The Legislature may prescribe that additional classes of private corporations or other persons are public utilities. [New section adopted November 5, 1974.]

SEC. 4. The commission may fix rates and establish rules for the transportation of passengers and property by transportation companies, prohibit discrimination, and award reparation for the exaction of unreasonable, excessive, or discriminatory charges. A transportation company may not raise a rate or incidental charge except after a showing to and a decision by the commission that the increase is justified, and this decision shall not be subject to judicial review except as to whether confiscation of property will result. [New section adopted November 5, 1974.]

SEC. 5. The Legislature has plenary power, unlimited by the other provisions of this constitution but consistent with this article, to confer additional authority and jurisdiction upon the commission, to establish the manner and scope of review of commission action in a court of record, and to enable it to fix just compensation for utility property taken by eminent domain. [New section adopted November 5, 1974.]

SEC. 6. The commission may fix rates, establish rules, examine records, issue subpoenas, administer oaths, take testimony, punish for contempt, and prescribe a uniform system of accounts for all public utilities subject to its jurisdiction. [New section adopted November 5, 1974.]

SEC. 7. A transportation company may not grant free passes or discounts to anyone holding an office in this State; and the acceptance of a pass or discount by a public officer, other than a Public Utilities Commissioner, shall work a forfeiture of that office. A Public Utilities Commissioner may not hold an official relation to nor have a financial interest in a person or corporation subject to regulation by the commission. [New section adopted November 5, 1974.]
SEC. 8. A city, county, or other public body may not regulate matters
over which the Legislature grants regulatory power to the Commission.
This section does not affect power over public utilities relating to the mak-
ing and enforcement of police, sanitary, and other regulations concerning
municipal affairs pursuant to a city charter existing on October 10, 1911,
unless that power has been revoked by the city’s electors, or the right of
any city to grant franchises for public utilities or other businesses on
terms, conditions, and in the manner prescribed by law. [New section
adopted November 5, 1974.]

[Restatement]

SEC. 9. The provisions of this article restate all related provisions of
the Constitution in effect immediately prior to the effective date of this
amendment and make no substantive change. [New section adopted
November 5, 1974.]

SEC. 10. [Repealed November 5, 1974.]
SEC. 17. [Repealed November 5, 1974.]
SEC. 18. [Repealed November 5, 1974.]
SEC. 19. [Repealed November 5, 1974.]
SEC. 20. [Repealed November 5, 1974.]
SEC. 21. [Repealed November 5, 1974.]
SEC. 22. [Repealed November 5, 1974.]
SEC. 23. [Repealed November 5, 1974.]
SEC. 23a. [Repealed November 5, 1974.]

ARTICLE XIII. [Repealed November 5, 1974. See Article XIII, below.]

ARTICLE XIII*

TAXATION

SECTION 1. [Repealed November 5, 1974. See Section 1, below.]

[Uniformity Clause]

SEC. 1. Unless otherwise provided by this Constitution or the laws of
the United States:

(a) All property is taxable and shall be assessed at the same percentage
of fair market value. When a value standard other than fair market value
is prescribed by this Constitution or by statute authorized by this Consti-
tution, the same percentage shall be applied to determine the assessed

value. The value to which the percentage is applied, whether it be the fair
market value or not, shall be known for property tax purposes as the full
value.

(b) All property so assessed shall be taxed in proportion to its full
value. [New section adopted November 5, 1974.]

SEC. 1a. [Repealed November 5, 1974.]
SEC. 1b. [Repealed November 5, 1974.]
SEC. 1c. [Repealed November 5, 1974.]
SEC. 1d. [Repealed November 5, 1974.]
SEC. 1¼. [Repealed November 5, 1974.]
SEC. 1¼a. [Repealed November 5, 1974.]
SEC. 1¼b. [Repealed November 5, 1974.]
SEC. 1½. [Repealed November 5, 1974.]
SEC. 1½a. [Repealed November 5, 1974.]
SEC. 1.60. [Repealed November 5, 1974.]
SEC. 1.61. [Repealed November 5, 1974.]
SEC. 1.62. [Repealed November 5, 1974.]
SEC. 1.63. [Repealed November 5, 1974.]
SEC. 1.64. [Repealed November 5, 1974.]
SEC. 1.65. [Repealed November 5, 1974.]
SEC. 1.66. [Repealed November 5, 1974.]
SEC. 1.67. [Repealed November 5, 1974.]
SEC. 1.68. [Repealed November 5, 1974.]
SEC. 1.69. [Repealed November 5, 1974.]
SEC. 1¾. [Repealed November 5, 1974.]
SEC. 2. [Repealed November 5, 1974. See Section 2, below.]

[Personal Property Classification]

SEC. 2. The Legislature may provide for property taxation of all
forms of tangible personal property, shares of capital stock, evidences of
indebtedness, and any legal or equitable interest therein not exempt under
any other provision of this article. The Legislature, two-thirds of the mem-
bership of each house concurring, may classify such personal property for
differential taxation or for exemption. The tax on any interest in notes, de-
bentures, shares of capital stock, bonds, solvent credits, deeds of trust, or
mortgages shall not exceed four-tenths of one percent of full value, and the
tax per dollar of full value shall not be higher on personal property than on
real property in the same taxing jurisdiction. [New section adopted
November 5, 1974.]
Section 2.5. [Repealed November 5, 1974.]

Section 2.6. [Repealed November 5, 1974.]

Section 2.8. [Repealed November 5, 1974.]

[Property Tax Exemptions]

Section 3. The following are exempt from property taxation:

[State Owned Property]
(a) Property owned by the State.

[Local Government Property]
(b) Property owned by a local government, except as otherwise provided in Section 11(a).

[Government Bonds]
(c) Bonds issued by the State or a local government in the State.

[Public Property]
(d) Property used for libraries and museums that are free and open to the public and property used exclusively for public schools, community colleges, state colleges, and state universities.

[Educational Property]
(e) Buildings, land, equipment, and securities used exclusively for educational purposes by a nonprofit institution of higher education.

[Church Property]
(f) Buildings, land on which they are situated, and equipment used exclusively for religious worship.

[Cemetery Property]
(g) Property used or held exclusively for the permanent deposit of human dead or for the care and maintenance of the property or the dead, except when used or held for profit. This property is also exempt from special assessment.

[Growing Crops]
(h) Growing crops.

[Fruit and Nut Trees]
(i) Fruit and nut trees until 4 years after the season in which they were planted in orchard form and grape vines until 3 years after the season in which they were planted in vineyard form.
[Timber Exemption]

(j) Immature forest trees planted on lands not previously bearing merchantable timber or planted or of natural growth on lands from which the merchantable original growth timber stand to the extent of 70 percent of all trees over 16 inches in diameter has been removed. Forest trees or timber shall be considered mature at such time after 40 years from the time of planting or removal of the original timber when so declared by a majority vote of a board consisting of a representative from the State Board of Forestry, a representative from the State Board of Equalization, and the assessor of the county in which the trees are located.

The Legislature may supersede the foregoing provisions with an alternative system or systems of taxing or exempting forest trees or timber, including a taxation system not based on property valuation. Any alternative system or systems shall provide for exemption of unharvested immature trees, shall encourage the continued use of timberlands for the production of trees for timber products, and shall provide for restricting the use of timberland to the production of timber products and compatible uses with provisions for taxation of timberland based on the restrictions. Nothing in this paragraph shall be construed to exclude timberland from the provisions of Section 8 of this article.

[Homeowners’ Exemption]

(k) $7,000 of the full value of a dwelling, as defined by the Legislature, when occupied by an owner as his principal residence, unless the dwelling is receiving another real property exemption. The Legislature may increase this exemption and may deny it if the owner received state or local aid to pay taxes either in whole or in part, and either directly or indirectly, on the dwelling.

No increase in this exemption above the amount of $7,000 shall be effective for any fiscal year unless the Legislature increases the rate of state taxes in an amount sufficient to provide the subventions required by Section 25.

If the Legislature increases the homeowners’ property tax exemption, it shall provide increases in benefits to qualified renters, as defined by law, comparable to the average increase in benefits to homeowners, as calculated by the Legislature.

[Vessels]

(l) Vessels of more than 50 tons burden in this State and engaged in the transportation of freight or passengers.

[Household Furnishings—Personal Effects]

(m) Household furnishings and personal effects not held or used in connection with a trade, profession, or business.
(n) Any debt secured by land.

(o) Property in the amount of $1,000 of a claimant who—
   (1) is serving in or has served in and has been discharged under honor-able conditions from service in the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Revenue Marine (Revenue Cutter) Service; and—
   (2) served either
      (i) in time of war, or
      (ii) in time of peace in a campaign or expedition for which a medal has been issued by Congress, or
      (iii) in time of peace and because of a service-connected disability was released from active duty; and—
   (3) resides in the State on the current lien date.

   An unmarried person who owns property valued at $5,000 or more, or a married person, who, together with the spouse, owns property valued at $10,000 or more, is ineligible for this exemption.

   If the claimant is married and does not own property eligible for the full amount of the exemption, property of the spouse shall be eligible for the unused balance of the exemption.

(p) Property in the amount of $1,000 of a claimant who—
   (1) is the unmarried spouse of a deceased veteran who met the service requirement stated in paragraphs (1) and (2) of subsection 3(o), and
   (2) does not own property in excess of $10,000, and
   (3) is a resident of the State on the current lien date.

(q) Property in the amount of $1,000 of a claimant who—
   (1) is the parent of a deceased veteran who met the service requirement stated in paragraphs (1) and (2) of subsection 3(o), and
   (2) receives a pension because of the veteran’s service, and
   (3) is a resident of the State on the current lien date.

   Either parent of a deceased veteran may claim this exemption.

   An unmarried person who owns property valued at $5,000 or more, or a married person, who, together with the spouse, owns property valued at $10,000 or more, is ineligible for this exemption.

(r) No individual residing in the State on the effective date of this amendment who would have been eligible for the exemption provided by
the previous section 1 1/4 of this article had it not been repealed shall lose eligibility for the exemption as a result of this amendment. [As amended November 8, 1988.]

[Veterans' Exemptions—Change in Assessment Ratio—Adjustment]

SEC. 3.5. In any year in which the assessment ratio is changed, the Legislature shall adjust the valuation of assessable property described in subdivisions (o), (p) and (q) of Section 3 of this article to maintain the same proportionate values of such property. [New section adopted November 6, 1979.]

[Property Tax Exemption]

SEC. 4. The Legislature may exempt from property taxation in whole or in part:

[Home of Veteran or Surviving Spouse]

(a) The home of a person or a person's spouse, including an unmarried surviving spouse, if the person, because of injury incurred in military service, is blind in both eyes, has lost the use of 2 or more limbs, or is totally disabled, or if the person has, as a result of a service-connected injury or disease, died while on active duty in military service, unless the home is receiving another real property exemption.

[Religious, Hospital and Charitable Property]

(b) Property used exclusively for religious, hospital, or charitable purposes and owned or held in trust by corporations or other entities (1) that are organized and operating for those purposes, (2) that are nonprofit, and (3) no part of whose net earnings inures to the benefit of any private shareholder or individual.

[Specific College Exemptions]

(c) Property owned by the California School of Mechanical Arts, California Academy of Sciences, or Cogswell Polytechnical College, or held in trust for the Huntington Library and Art Gallery, or their successors.

[Church Parking Lots]

(d) Real property not used for commercial purposes that is reasonably and necessarily required for parking vehicles of persons worshipping on land exempt by Section 3(f). [As amended November 3, 1992.]

[Exemption of Buildings Under Construction]

SEC. 5. Exemptions granted or authorized by Sections 3(e), 3(f), and 4(b) apply to buildings under construction, land required for their convenient use, and equipment in them if the intended use would qualify the property for exemption. [New section adopted November 5, 1974.]
SEC. 6. [Repealed November 5, 1974. See Section 6, below.]

[Exemption Waivers]

SEC. 6. The failure in any year to claim, in a manner required by the laws in effect at the time the claim is required to be made, an exemption or classification which reduces a property tax shall be deemed a waiver of the exemption or classification for that year. [New section adopted November 5, 1974.]

SEC. 7. [Repealed November 5, 1974. See Section 7, below.]

[Real Property Taxes—Exemption by County Boards of Supervisors]

SEC. 7. The Legislature, two-thirds of the membership of each house concurring, may authorize county boards of supervisors to exempt real property having a full value so low that, if not exempt, the total taxes and applicable subventions on the property would amount to less than the cost of assessing and collecting them. [New section adopted November 5, 1974.]

[Open Space Land and Historical Property—Exemption]

SEC. 8. To promote the conservation, preservation and continued existence of open space lands, the Legislature may define open space land and shall provide that when this land is enforceably restricted, in a manner specified by the Legislature, to recreation, enjoyment of scenic beauty, use or conservation of natural resources, or production of food or fiber, it shall be valued for property tax purposes only on a basis that is consistent with its restrictions and uses.

To promote the preservation of property of historical significance, the Legislature may define such property and shall provide that when it is enforceably restricted, in a manner specified by the Legislature, it shall be valued for property tax purposes only on a basis that is consistent with its restrictions and uses. [As amended June 8, 1976.]

[Postponement of Property Taxes]

SEC. 8.5. The Legislature may provide by law for the manner in which a person of low or moderate income who is 62 years of age or older may postpone ad valorem property taxes on the dwelling owned and occupied by him or her as his or her principal place of residence. The Legislature may also provide by law for the manner in which a disabled person may postpone payment of ad valorem property taxes on the dwelling owned and occupied by him or her as his or her principal place of residence. The Legislature shall have plenary power to define all terms in this section.

The Legislature shall provide by law for subventions to counties, cities and counties, cities and districts in an amount equal to the amount of rev-
enue lost by each by reason of the postponement of taxes and for the re-

imbursement to the State of subventions from the payment of postponed
taxes. Provision shall be made for the inclusion of reimbursement for the
payment of interest on, and any costs to the State incurred in connection
with, the subventions. [As amended November 6, 1984.]

SEC. 9. [Repealed November 5, 1974. See Section 9, below.]

[Valuation of Certain Homes]

SEC. 9. The Legislature may provide for the assessment for taxation
only on the basis of use of a single-family dwelling, as defined by the Leg-
islature, and so much of the land as is required for its convenient use and
occupation, when the dwelling is occupied by an owner and located on
land zoned exclusively for single-family dwellings or for agricultural pur-
poses. [New section adopted November 5, 1974.]

SEC. 9a. [Repealed November 5, 1974.]

SEC. 9.5. [Repealed November 5, 1974.]

SEC. 10. [Repealed November 5, 1974. See Section 10, below.]

[Golf Course Values]

SEC. 10. Real property in a parcel of 10 or more acres which, on the
lien date and for 2 or more years immediately preceding, has been used
exclusively for nonprofit golf course purposes shall be assessed for taxa-
tion on the basis of such use, plus any value attributable to mines, quarries,
hydrocarbon substances, or other minerals in the property or the right to
extract hydrocarbons or other minerals from the property. [New section
adopted November 5, 1974.]

SEC. 10½. [Repealed November 5, 1974.]

SEC. 11. [Repealed November 5, 1974. See Section 11, below.]

[Taxation of Local Government Real Property]

SEC. 11. (a) Lands owned by a local government that are outside its
boundaries, including rights to use or divert water from surface or under-
ground sources and any other interests in lands, are taxable if (1) they are
located in Inyo or Mono County and (a) they were assessed for taxation to
the local government in Inyo County as of the 1966 lien date, or in Mono
County as of the 1967 lien date, whether or not the assessment was valid
when made, or (b) they were acquired by the local government subsequent
to that lien date and were assessed to a prior owner as of that lien date and
each lien date thereafter, or (2) they are located outside Inyo or Mono
County and were taxable when acquired by the local government. Im-
provements owned by a local government that are outside its boundaries
are taxable if they were taxable when acquired or were constructed by the
local government to replace improvements which were taxable when ac-
(i)
(b) Taxable land belonging to a local government and located in Inyo
County shall be assessed in any year subsequent to 1968 at the place where
it was assessed as of the 1966 lien date and in an amount derived by mul-
tiplying its 1966 assessed value by the ratio of the statewide per capita as-
sessed value of land as of the last lien date prior to the current lien date to
$766, using civilian population only. Taxable land belonging to a local
government and located in Mono County shall be assessed in any year
subsequent to 1968 at the place where it was assessed as of the 1967 lien
date and in an amount determined by the preceding formula except that the
1967 lien date, the 1967 assessed value, and the figure $856 shall be used
in the formula. Taxable land belonging to a local government and located
outside of Inyo and Mono counties shall be assessed at the place where lo-
cated and in an amount that does not exceed the lower of (1) its fair market
value times the prevailing percentage of fair market value at which other
lands are assessed and (2) a figure derived in the manner specified in this
Section for land located in Mono County.

If land acquired by a local government after the lien date of the base
year specified in this Section was assessed in the base year as part of a
larger parcel, the assessed value of the part in the base year shall be that
fraction of the assessed value of the larger parcel that the area of the part
is of the area of the larger parcel.

If a local government divests itself of ownership of land without water
rights and this land was assessed in Inyo County as of the 1966 lien date
or in Mono County as of the 1967 lien date, the divestment shall not di-
minish the quantity of water rights assessable and taxable at the place
where assessed as of that lien date.

(c) In the event the Legislature changes the prevailing percentage of
fair market value at which land is assessed for taxation, there shall be used
in the computations required by Section 11(b) of this Article, for the first
year for which the new percentage is applicable, in lieu of the statewide
per capita assessed value of land as of the last lien date prior to the current
lien date, the statewide per capita assessed value of land on the prior lien
date times the ratio of the new prevailing percentage of fair market value
to the previous prevailing percentage.

(d) If, after March 1954, a taxable improvement is replaced while
owned by and in possession of a local government, the replacement im-
provement shall be assessed, as long as it is owned by a local government,
as other improvements are except that the assessed value shall not exceed
the product of (1) the percentage at which privately owned improvements
are assessed times (2) the highest full value ever used for taxation of the
improvement that has been replaced. For purposes of this calculation, the
full value for any year prior to 1967 shall be conclusively presumed to be 4 times the assessed value in that year.

(e) No tax, charge, assessment, or levy of any character, other than those taxes authorized by Sections 11(a) to 11(d), inclusive, of this Article, shall be imposed upon one local government by another local government that is based or calculated upon the consumption or use of water outside the boundaries of the government imposing it.

(f) Any taxable interest of any character, other than a lease for agricultural purposes and an interest of a local government, in any land owned by a local government that is subject to taxation pursuant to Section 11(a) of this Article shall be taxed in the same manner as other taxable interests. The aggregate value of all the interests subject to taxation pursuant to Section 11(a), however, shall not exceed the value of all interests in the landless the taxable value of the interest of any local government ascertained as provided in Sections 11(a) to 11(e), inclusive, of this Article.

(g) Any assessment made pursuant to Sections 11(a) to 11(d), inclusive, of this Article shall be subject to review, equalization, and adjustment by the State Board of Equalization, but an adjustment shall conform to the provisions of these Sections. [New section adopted November 5, 1974.]

[Unsecured Property Tax Rate]

SEC. 12. (a) Except as provided in subdivision (b), taxes on personal property, possessory interests in land, and taxable improvements located on land exempt from taxation which are not a lien upon land sufficient in value to secure their payment shall be levied at the rates for the preceding tax year upon property of the same kind where the taxes were a lien upon land sufficient in value to secure their payment.

(b) In any year in which the assessment ratio is changed, the Legislature shall adjust the rate described in subdivision (a) to maintain equality between property on the secured and unsecured rolls. [As amended November 2, 1976.]

SEC. 12 3/4. [Repealed November 5, 1974.]

SEC. 13. [Repealed November 5, 1974. See Section 13, below.]

[Separate Land and Improvements Assessment]

SEC. 13. Land and improvements shall be separately assessed. [New section adopted November 5, 1974.]

SEC. 14. [Repealed November 5, 1974. See Section 14, below.]

[Tax Situs]

SEC. 14. All property taxed by local government shall be assessed in the county, city, and district in which it is situated. [New section adopted November 5, 1974.]

SEC. 14 1/2. [Repealed November 5, 1974.]
SEC. 15. [Repealed November 5, 1974. See Section 15, below.]

Disaster Relief
SEC. 15. The Legislature may authorize local government to provide for the assessment or reassessment of taxable property physically damaged or destroyed after the lien date to which the assessment or reassessment relates. [New section adopted November 5, 1974.]

SEC. 16. [Repealed November 5, 1974. See Section 16, below.]

County Board of Equalization—Assessment Appeals Board
SEC. 16. The county board of supervisors, or one or more assessment appeals boards created by the county board of supervisors, shall constitute the county board of equalization for a county. Two or more county boards of supervisors may jointly create one or more assessment appeals boards which shall constitute the county board of equalization for each of the participating counties.

Except as provided in subdivision (g) of Section 11, the county board of equalization, under such rules of notice as the county board may prescribe, shall equalize the values of all property on the local assessment roll by adjusting individual assessments.

County boards of supervisors shall fix the compensation for members of assessment appeals boards, furnish clerical and other assistance for those boards, adopt rules of notice and procedures for those boards as may be required to facilitate their work and to insure uniformity in the processing and decision of equalization petitions, and may provide for their discontinuance.

The Legislature shall provide for: (a) the number and qualifications of members of assessment appeals boards, the manner of selecting, appointing, and removing them, and the terms for which they serve, and (b) the procedure by which two or more county boards of supervisors may jointly create one or more assessment appeals boards. [New section adopted November 5, 1974.]

Board of Equalization
SEC. 17. The Board of Equalization consists of 5 voting members: the Controller and 4 members elected for 4-year terms at gubernatorial elections. The State shall be divided into four Board of Equalization districts with the voters of each district electing one member. No member may serve more than 2 terms. [As amended November 6, 1990. Initiative measure.]

SEC. 18. [Repealed November 5, 1974. See Section 18, below.]

Intercounty Equalization
SEC. 18. The Board shall measure county assessment levels annually and shall bring those levels into conformity by adjusting entire secured lo-
cal assessment rolls. In the event a property tax is levied by the State, however, the effects of unequalized local assessment levels, to the extent any remain after such adjustments, shall be corrected for purposes of distributing this tax by equalizing the assessment levels of locally and state-assessed properties and varying the rate of the state tax inversely with the counties' respective assessment levels. [New section adopted November 5, 1974.]

Sec. 19. [Repealed November 5, 1974. See Section 19, below.]

[State Assessment]

Sec. 19. The Board shall annually assess (1) pipelines, flumes, canals, ditches, and aqueducts lying within 2 or more counties and (2) property, except franchises, owned or used by regulated railway, telegraph, or telephone companies, car companies operating on railways in the State, and companies transmitting or selling gas or electricity. This property shall be subject to taxation to the same extent and in the same manner as other property.

No other tax or license charge may be imposed on these companies which differs from that imposed on mercantile, manufacturing, and other business corporations. This restriction does not release a utility company from payments agreed on or required by law for a special privilege or franchise granted by a government body.

The Legislature may authorize Board assessment of property owned or used by other public utilities.

The Board may delegate to a local assessor the duty to assess a property used but not owned by a state assessee on which the taxes are to be paid by a local assessee. [New section adopted November 5, 1974.]

Sec. 20. [Repealed November 5, 1974. See Section 20, below.]

[Maximum Tax Rates—Bonding Limits]

Sec. 20. The Legislature may provide maximum property tax rates and bonding limits for local governments. [New section adopted November 5, 1974.]

Sec. 21. [Repealed November 5, 1974. See Section 21, below.]

[School District Tax]

Sec. 21. Within such limits as may be provided under Section 20 of this Article, the Legislature shall provide for an annual levy by county governing bodies of school district taxes sufficient to produce annual revenues for each district that the district's board determines are required for its schools and district functions. [New section adopted November 5, 1974.]

Sec. 21.5. [Repealed November 5, 1974.]
SEC. 22. [Repealed November 5, 1974. See Section 22, below.]

[State Property Tax Limitations]
SEC. 22. Not more than 25 percent of the total appropriations from all funds of the State shall be raised by means of taxes on real and personal property according to the value thereof. [New section adopted November 5, 1974.]

SEC. 23. [Repealed November 5, 1974. See Section 23, below.]

[State Boundary Change]
SEC. 23. If state boundaries change, the Legislature shall determine how property affected shall be taxed. [New section adopted November 5, 1974.]

SEC. 24. [Repealed November 5, 1974. See Section 24, below.]

[State Taxes for Local Purposes]
SEC. 24. The Legislature may not impose taxes for local purposes but may authorize local governments to impose them.

[State Funds for Local Purposes]
Money appropriated from state funds to a local government for its local purposes may be used as provided by law.

[Subventions]
Money subvened to a local government under Section 25 may be used for state or local purposes. [New section adopted November 5, 1974.]

SEC. 25. [Repealed November 5, 1974. See Section 25, below.]

[Homeowners’ Exemption, Reimbursement of Local Government]
SEC. 25. The Legislature shall provide, in the same fiscal year, reimbursements to each local government for revenue lost because of Section 3(k). [New section adopted November 5, 1974.]

SEC. 25.5. [Repealed November 5, 1974.]

[Income Tax]
SEC. 26. (a) Taxes on or measured by income may be imposed on persons, corporations, or other entities as prescribed by law.

(b) Interest on bonds issued by the State or a local government in the State is exempt from taxes on income.

(c) Income of a nonprofit educational institution of collegiate grade within the State of California is exempt from taxes on or measured by income if both of the following conditions are met:

1. The income is not unrelated business income as defined by the Legislature.
(2) The income is used exclusively for educational purposes.

(d) A nonprofit organization that is exempted from taxation by Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the Revenue and Taxation Code or Subchapter F (commencing with Section 501) of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986, or the successor of either, is exempt from any business license tax or fee measured by income or gross receipts that is levied by a county or city, whether charter or general law, a city and county, a school district, a special district, or any other local agency. [As amended June 7, 1994.]

[Bank and Corporation Taxes]

SEC. 27. The Legislature, a majority of the membership of each house concurring, may tax corporations, including state and national banks, and their franchises by any method not prohibited by this Constitution or the Constitution or laws of the United States. Unless otherwise provided by the Legislature, the tax on state and national banks shall be according to or measured by their net income and shall be in lieu of all other taxes and license fees upon banks or their shares, except taxes upon real property and vehicle registration and license fees. [As amended June 8, 1976.]

[Taxation of Insurance Companies]

SEC. 28. (a) “Insurer,” as used in this section, includes insurance companies or associations and reciprocal or interinsurance exchanges together with their corporate or other attorneys in fact considered as a single unit, and the State Compensation Insurance Fund. As used in this paragraph, “companies” includes persons, partnerships, joint stock associations, companies and corporations.

(b) An annual tax is hereby imposed on each insurer doing business in this State on the base, at the rates, and subject to the deductions from the tax hereinafter specified.

(c) In the case of an insurer not transacting title insurance in this State, the “basis of the annual tax” is, in respect to each year, the amount of gross premiums, less return premiums, received in such year by such insurer upon its business done in this State, other than premiums received for reinsurance and for ocean marine insurance.

In the case of an insurer transacting title insurance in this State, the “basis of the annual tax” is, in respect to each year, all income upon business done in this State, except:

1. Interest and dividends.
2. Rents from real property.
3. Profits from the sale or other disposition of investments.
4. Income from investments.

“Investments” as used in this subdivision includes property acquired by such insurer in the settlement or adjustment of claims against it but ex-
cludes investments in title plants and title records. Income derived directly or indirectly from the use of title plants and title records is included in the basis of the annual tax.

In the case of an insurer transacting title insurance in this State which has a trust department and does a trust business under the banking laws of this State, there shall be excluded from the basis of the annual tax imposed by this section, the income of, and from the assets of, such trust department and such trust business, if such income is taxed by this State or included in the measure of any tax imposed by this State.

(d) The rate of the tax to be applied to the basis of the annual tax in respect to each year is 2.35 percent.

(f) The tax imposed on insurers by this section is in lieu of all other taxes and licenses, state, county, and municipal, upon such insurers and their property, except:

(1) Taxes upon their real estate.

(2) That an insurer transacting title insurance in this State which has a trust department or does a trust business under the banking laws of this State is subject to taxation with respect to such trust department or trust business to the same extent and in the same manner as trust companies and the trust departments of banks doing business in this State.

(3) When by or pursuant to the laws of any other state or foreign country any taxes, licenses and other fees, in the aggregate, and any fines, penalties, deposit requirements or other material obligations, prohibitions or restrictions are or would be imposed upon California insurers, or upon the agents or representatives of such insurers, which are in excess of such taxes, licenses and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit requirements or other obligations, prohibitions, or restrictions directly imposed upon similar insurers, or upon the agents or representatives of such insurers, of such other state or country under the statutes of this State; so long as such laws of such other state or country continue in force or are so applied, the same taxes, licenses and other fees, in the aggregate, or fines, penalties or deposit requirements or other material obligations, prohibitions, or restrictions, of whatever kind shall be imposed upon the insurers, or upon the agents or representatives of such insurers, of such other state or country doing business or seeking to do business in California. Any tax, license or other fee or other obligation imposed by any city, county, or other political subdivision or agency of such other state or country on California insurers or their agents or representatives shall be deemed to be imposed by such state or country within the meaning of this paragraph (3) of subdivision (f).

The provisions of this paragraph (3) of subdivision (f) shall not apply as to personal income taxes, nor as to ad valorem taxes on real or personal property nor as to special purpose obligations or assessments heretofore imposed by another state or foreign country in connection with particular
kinds of insurance, other than property insurance; except that deductions,
from premium taxes or other taxes otherwise payable, allowed on account
of real estate or personal property taxes paid shall be taken into consid-
eration in determining the propriety and extent of retaliatory action under
this paragraph (3) of subdivision (f).

For the purposes of this paragraph (3) of subdivision (f) the domicile of
an alien insurer, other than insurers formed under the laws of Canada, shall
be that state in which is located its principal place of business in the United
States.

In the case of an insurer formed under the laws of Canada or a province
thereof, its domicile shall be deemed to be that province in which its head
office is situated.

The provisions of this paragraph (3) of subdivision (f) shall also be ap-
licable to reciprocals or interinsurance exchanges and fraternal benefit
societies.

(4) The tax on ocean marine insurance.

(5) Motor vehicle and other vehicle registration license fees and any
other tax or license fee imposed by the State upon vehicles, motor vehicles
or the operation thereof.

(6) That each corporate or other attorney in fact of a reciprocal or in-
terinsurance exchange shall be subject to all taxes imposed upon corpo-
rations or others doing business in the State, other than taxes on income
derived from its principal business as attorney in fact.

A corporate or other attorney in fact of each exchange shall annually
compute the amount of tax that would be payable by it under prevailing
law except for the provisions of this section, and any management fee due
from each exchange to its corporate or other attorney in fact shall be re-
duced pro tanto by a sum equivalent to the amount so computed.

(g) Every insurer transacting the business of ocean marine insurance in
this State shall annually pay to the State a tax measured by that proportion
of the underwriting profit of such insurer from such insurance written in
the United States, which the gross premiums of the insurer from such in-
surance written in this State bear to the gross premiums of the insurer from
such insurance written within the United States, at the rate of 5 per cen-
tum, which tax shall be in lieu of all other taxes and licenses, state, county
and municipal, upon such insurer, except taxes upon real estate, and such
other taxes as may be assessed or levied against such insurer on account of
any other class of insurance written by it. The Legislature shall define the
terms “ocean marine insurance” and “underwriting profit,” and shall pro-
vide for the assessment, levy, collection and enforcement of the ocean ma-
rine tax.

(h) The taxes provided for by this section shall be assessed by the State
Board of Equalization.
(i) The Legislature, a majority of all the members elected to each of the two houses voting in favor thereof, may by law change the rate or rates of taxes herein imposed upon insurers.

(j) This section is not intended to and does not change the law as it has previously existed with respect to the meaning of the words “gross premiums, less return premiums, received” as used in this article. [As amended June 8, 1976.]

[Local Government Tax Sharing]

Sec. 29. (a) The Legislature may authorize counties, cities and counties, and cities to enter into contracts to apportion between them the revenue derived from any sales or use tax imposed by them that is collected for them by the State. Before the contract becomes operative, it shall be authorized by a majority of those voting on the question in each jurisdiction at a general or direct primary election.

(b) Notwithstanding subdivision (a), on and after the operative date of this subdivision, counties, cities and counties, and cities may enter into contracts to apportion between them the revenue derived from any sales or use tax imposed by them pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, or any successor provisions, that is collected for them by the State, if the ordinance or resolution proposing each contract is approved by a two-thirds vote of the governing body of each jurisdiction that is a party to the contract. [As amended November 3, 1998.]

[Tax Liens—Presumption of Payment of Taxes]

Sec. 30. Every tax shall be conclusively presumed to have been paid after 30 years from the time it became a lien unless the property subject to the lien has been sold in the manner provided by the Legislature for the payment of the tax. [New section adopted November 5, 1974.]

[Power to Tax]

Sec. 31. The power to tax may not be surrendered or suspended by grant or contract. [New section adopted November 5, 1974.]

[Proceedings Relating to Collection]

Sec. 32. No legal or equitable process shall issue in any proceeding in any court against this State or any officer thereof to prevent or enjoin the collection of any tax. After payment of a tax claimed to be illegal, an action may be maintained to recover the tax paid, with interest, in such manner as may be provided by the Legislature. [New section adopted November 5, 1974.]

[Legislature to Enact Laws]

Sec. 33. The Legislature shall pass all laws necessary to carry out the provisions of this article. [New section adopted November 5, 1974.]
Sec. 34. Neither the State of California nor any of its political subdivisions shall levy or collect a sales or use tax on the sale of, or the storage, use or other consumption in this State of food products for human consumption except as provided by statute as of the effective date of this section. [New section adopted November 3, 1992. Operative January 1, 1993. Initiative measure.]

Sec. 35. (a) The people of the State of California find and declare all of the following:

(1) Public safety services are critically important to the security and well-being of the State’s citizens and to the growth and revitalization of the State’s economic base.

(2) The protection of the public safety is the first responsibility of local government and local officials have an obligation to give priority to the provision of adequate public safety services.

(3) In order to assist local government in maintaining a sufficient level of public safety services, the proceeds of the tax enacted pursuant to this section shall be designated exclusively for public safety.

(b) In addition to any sales and use taxes imposed by the Legislature, the following sales and use taxes are hereby imposed:

(1) For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of \( \frac{1}{2} \) percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this State on and after January 1, 1994.

(2) An excise tax is hereby imposed on the storage, use, or other consumption in this State of tangible personal property purchased from any retailer on and after January 1, 1994, for storage, use, or other consumption in this State at the rate of \( \frac{1}{2} \) percent of the sales price of the property.

(c) The Sales and Use Tax Law, including any amendments made thereto on or after the effective date of this section, shall be applicable to the taxes imposed by subdivision (b).

(d) (1) All revenues, less refunds, derived from the taxes imposed pursuant to subdivision (b) shall be transferred to the Local Public Safety Fund for allocation by the Legislature, as prescribed by statute, to counties in which either of the following occurs:

(A) The board of supervisors, by a majority vote of its membership, requests an allocation from the Local Public Safety Fund in a manner prescribed by statute.

(B) A majority of the county’s voters voting thereon approve the addition of this section.

(2) Moneys in the Local Public Safety Fund shall be allocated for use exclusively for public safety services of local agencies.
(e) Revenues derived from the taxes imposed pursuant to subdivision (b) shall not be considered proceeds of taxes for purposes of Article XIII B or State General Fund proceeds of taxes within the meaning of Article XVI.

(f) Except for the provisions of Section 34, this section shall supersede any other provisions of this Constitution that are in conflict with the provisions of this section, including, but not limited to, Section 9 of Article II.

[New section adopted November 2, 1993.]

SEC. 37. [Repealed November 5, 1974.]
SEC. 37.5. [Repealed November 5, 1974.]
SEC. 38. [Repealed November 5, 1974.]
SEC. 39. [Repealed November 5, 1974.]
SEC. 40. [Repealed November 5, 1974.]
SEC. 41. [Repealed November 5, 1974.]
SEC. 42. [Repealed November 5, 1974.]
SEC. 44. [Repealed November 5, 1974.]

ARTICLE XIII A*

TAX LIMITATION

[Maximum Ad Valorem Tax on Real Property—Apportionment of Tax Revenues]

SECTION 1. (a) The maximum amount of any ad valorem tax on real property shall not exceed One percent (1%) of the full cash value of such property. The one percent (1%) tax to be collected by the counties and apportioned according to law to the districts within the counties.

[Exceptions to Limitation]

(b) The limitation provided for in subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any of the following:

1. Indebtedness approved by the voters prior to July 1, 1978.
2. Bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition.
3. Bonded indebtedness incurred by a school district, community college district, or county office of education for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, approved by 55 percent of the voters of

the district or county, as appropriate, voting on the proposition on or after the effective date of the measure adding this paragraph. This paragraph shall apply only if the proposition approved by the voters and resulting in the bonded indebtedness includes all of the following accountability requirements:

(A) A requirement that the proceeds from the sale of the bonds be used only for the purposes specified in Article XIII A, Section 1(b)(3), and not for any other purpose, including teacher and administrator salaries and other school operating expenses.

(B) A list of the specific school facilities projects to be funded and certification that the school district board, community college board, or county office of education has evaluated safety, class size reduction, and information technology needs in developing that list.

(C) A requirement that the school district board, community college board, or county office of education conduct an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed.

(D) A requirement that the school district board, community college board, or county office of education conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the school facilities projects.

(c) Notwithstanding any other provisions of law or of this Constitution, school districts, community college districts, and county offices of education may levy a 55 percent vote ad valorem tax pursuant to subdivision (b). [As amended November 7, 2000. Initiative measure.]

[Valuation of Real Property—Appraised Value After 1975 Assessment—Replacement Dwelling]

SEC. 2. (a) The “full cash value” means the county assessor’s valuation of real property as shown on the 1975–76 tax bill under “full cash value” or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment. All real property not already assessed up to the 1975–76 full cash value may be reassessed to reflect that valuation. For purposes of this section, “newly constructed” does not include real property that is reconstructed after a disaster, as declared by the Governor, where the fair market value of the real property, as reconstructed, is comparable to its fair market value prior to the disaster. Also, the term “newly constructed” does not include the portion of reconstruction or improvement to a structure, constructed of unreinforced masonry bearing wall construction, necessary to comply with any local ordinance relating to seismic safety during the first 15 years following that reconstruction or improvement.
However, the Legislature may provide that, under appropriate circumstances and pursuant to definitions and procedures established by the Legislature, any person over the age of 55 years who resides in property that is eligible for the homeowner’s exemption under subdivision (k) of Section 3 of Article XIII and any implementing legislation may transfer the base year value of the property entitled to exemption, with the adjustments authorized by subdivision (b), to any replacement dwelling of equal or lesser value located within the same county and purchased or newly constructed by that person as his or her principal residence within two years of the sale of the original property. For purposes of this section, “any person over the age of 55 years” includes a married couple one member of which is over the age of 55 years. For purposes of this section, “replacement dwelling” means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, and any land on which it may be situated. For purposes of this section, a two-dwelling unit shall be considered as two separate single-family dwellings. This paragraph shall apply to any replacement dwelling that was purchased or newly constructed on or after November 5, 1986.

In addition, the Legislature may authorize each county board of supervisors, after consultation with the local affected agencies within the county’s boundaries, to adopt an ordinance making the provisions of this subdivision relating to transfer of base year value also applicable to situations in which the replacement dwellings are located in that county and the original properties are located in another county within this State. For purposes of this paragraph, “local affected agency” means any city, special district, school district, or community college district that receives an annual property tax revenue allocation. This paragraph shall apply to any replacement dwelling that was purchased or newly constructed on or after the date the county adopted the provisions of this subdivision relating to transfer of base year value, but shall not apply to any replacement dwelling that was purchased or newly constructed before November 9, 1988.

The Legislature may extend the provisions of this subdivision relating to the transfer of base year values from original properties to replacement dwellings of homeowners over the age of 55 years to severely disabled homeowners, but only with respect to those replacement dwellings purchased or newly constructed on or after the effective date of this paragraph.

[Full Cash Value Reflecting Inflationary Rate]

(b) The full cash value base may reflect from year to year the inflationary rate not to exceed 2 percent for any given year or reduction as shown in the consumer price index or comparable data for the area under taxing jurisdiction, or may be reduced to reflect substantial damage, destruction, or other factors causing a decline in value.
(c) For purposes of subdivision (a), the Legislature may provide that the term “newly constructed” does not include any of the following:

(1) The construction or addition of any active solar energy system.

(2) The construction or installation of any fire sprinkler system, other fire extinguishing system, fire detection system, or fire-related egress improvement, as defined by the Legislature, that is constructed or installed after the effective date of this paragraph.

(3) The construction, installation, or modification on or after the effective date of this paragraph of any portion or structural component of a single- or multiple-family dwelling that is eligible for the homeowner’s exemption if the construction, installation, or modification is for the purpose of making the dwelling more accessible to a severely disabled person.

(4) The construction or installation of seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies, that are constructed or installed in existing buildings after the effective date of this paragraph. The Legislature shall define eligible improvements. This exclusion does not apply to seismic safety reconstruction or improvements that qualify for exclusion pursuant to the last sentence of the first paragraph of subdivision (a).

(5) The construction, installation, removal, or modification on or after the effective date of this paragraph of any portion or structural component of an existing building or structure if the construction, installation, removal, or modification is for the purpose of making the building more accessible to, or more usable by, a disabled person.

(d) For purposes of this section, the term “change in ownership” does not include the acquisition of real property as a replacement for comparable property if the person acquiring the real property has been displaced from the property replaced by eminent domain proceedings, by acquisition by a public entity, or governmental action that has resulted in a judgment of inverse condemnation. The real property acquired shall be deemed comparable to the property replaced if it is similar in size, utility, and function, or if it conforms to state regulations defined by the Legislature governing the relocation of persons displaced by governmental actions. The provisions of this subdivision shall be applied to any property acquired after March 1, 1975, but shall affect only those assessments of that property that occur after the provisions of this subdivision take effect.

(e) (1) Notwithstanding any other provision of this section, the Legislature shall provide that the base year value of property that is substantially
damaged or destroyed by a disaster, as declared by the Governor, may be transferred to comparable property within the same county that is acquired or newly constructed as a replacement for the substantially damaged or destroyed property.

(2) Except as provided in paragraph (3), this subdivision shall apply to any comparable replacement property acquired or newly constructed on or after July 1, 1985, and to the determination of base year values for the 1985–86 fiscal year and fiscal years thereafter.

(3) In addition to the transfer of base year value of property within the same county that is permitted by paragraph (1), the Legislature may authorize each county board of supervisors to adopt, after consultation with affected local agencies within the county, an ordinance allowing the transfer of the base year value of property that is located within another county in the State and is substantially damaged or destroyed by a disaster, as declared by the Governor, to comparable replacement property of equal or lesser value that is located within the adopting county and is acquired or newly constructed within three years of the substantial damage or destruction of the original property as a replacement for that property. The scope and amount of the benefit provided to a property owner by the transfer of base year value of property pursuant to this paragraph shall not exceed the scope and amount of the benefit provided to a property owner by the transfer of base year value of property pursuant to subdivision (a). For purposes of this paragraph, “affected local agency” means any city, special district, school district, or community college district that receives an annual allocation of ad valorem property tax revenues. This paragraph shall apply to any comparable replacement property that is acquired or newly constructed as a replacement for property substantially damaged or destroyed by a disaster, as declared by the Governor, occurring on or after October 20, 1991, and to the determination of base year values for the 1991–92 fiscal year and fiscal years thereafter.

(f) For the purposes of subdivision (e):

(1) Property is substantially damaged or destroyed if it sustains physical damage amounting to more than 50 percent of its value immediately before the disaster. Damage includes a diminution in the value of property as a result of restricted access caused by the disaster.

(2) Replacement property is comparable to the property substantially damaged or destroyed if it is similar in size, utility, and function to the property that it replaces, and if the fair market value of the acquired property is comparable to the fair market value of the replaced property prior to the disaster.
[Real Property Transfers between Spouses]

(g) For purposes of subdivision (a), the terms “purchased” and “change in ownership” do not include the purchase or transfer of real property between spouses since March 1, 1975, including, but not limited to, all of the following:

1. Transfers to a trustee for the beneficial use of a spouse, or the surviving spouse of a deceased transferor, or by a trustee of such a trust to the spouse of the trustor.
2. Transfers to a spouse that take effect upon the death of a spouse.
3. Transfers to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation.
4. The creation, transfer, or termination, solely between spouses, of any coowner’s interest.
5. The distribution of a legal entity’s property to a spouse or former spouse in exchange for the interest of the spouse in the legal entity in connection with a property settlement agreement or a decree of dissolution of a marriage or legal separation.

[Real Property Transfers between Family Members]

(h) (1) For purposes of subdivision (a), the terms “purchased” and “change in ownership” do not include the purchase or transfer of the principal residence of the transferor in the case of a purchase or transfer between parents and their children, as defined by the Legislature, and the purchase or transfer of the first one million dollars ($1,000,000) of the full cash value of all other real property between parents and their children, as defined by the Legislature. This subdivision shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree.

2. (A) Subject to subparagraph (B), commencing with purchases or transfers that occur on or after the date upon which the measure adding this paragraph becomes effective, the exclusion established by paragraph (1) also applies to a purchase or transfer of real property between grandparents and their grandchild or grandchildren, as defined by the Legislature, that otherwise qualifies under paragraph (1), if all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of the purchase or transfer.

(B) A purchase or transfer of a principal residence shall not be excluded pursuant to subparagraph (A) if the transferee grandchild or grandchildren also received a principal residence, or interest therein, through another purchase or transfer that was excludable pursuant to paragraph (1). The full cash value of any real property, other than a principal residence, that was transferred to the grandchild or grandchildren pursuant to a purchase or transfer that was excludable pursuant to paragraph (1), and the full cash value of a principal residence that fails to qualify for exclu-
sion as a result of the preceding sentence, shall be included in applying, for purposes of subparagraph (A), the one million dollar ($1,000,000) full cash value limit specified in paragraph (1).

[Contaminated Property]

(i) (1) Notwithstanding any other provision of this section, the Legislature shall provide with respect to a qualified contaminated property, as defined in paragraph (2), that either, but not both, of the following shall apply:

(A) (i) Subject to the limitation of clause (ii), the base year value of the qualified contaminated property, as adjusted as authorized by subdivision (b), may be transferred to a replacement property that is acquired or newly constructed as a replacement for the qualified contaminated property, if the replacement real property has a fair market value that is equal to or less than the fair market value of the qualified contaminated property if that property were not contaminated and, except as otherwise provided by this clause, is located within the same county. The base year value of the qualified contaminated property may be transferred to a replacement real property located within another county if the board of supervisors of that other county has, after consultation with the affected local agencies within that county, adopted a resolution authorizing an intercounty transfer of base year value as so described.

(ii) This subparagraph applies only to replacement property that is acquired or newly constructed within five years after ownership in the qualified contaminated property is sold or otherwise transferred.

(B) In the case in which the remediation of the environmental problems on the qualified contaminated property requires the destruction of, or results in substantial damage to, a structure located on that property, the term "new construction" does not include the repair of a substantially damaged structure, or the construction of a structure replacing a destroyed structure on the qualified contaminated property, performed after the remediation of the environmental problems on that property, provided that the repaired or replacement structure is similar in size, utility, and function to the original structure.

(2) For purposes of this subdivision, "qualified contaminated property" means residential or nonresidential real property that is all of the following:

(A) In the case of residential real property, rendered uninhabitable, and in the case of nonresidential real property, rendered unusable, as the result of either environmental problems, in the nature of and including, but not limited to, the presence of toxic or hazardous materials, or the remediation of those environmental problems, except where the existence of the environmental problems was known to the owner, or to a related individual or entity as described in paragraph (3), at the time the real property was ac-
quired or constructed. For purposes of this subparagraph, residential real property is “uninhabitable” if that property, as a result of health hazards caused by or associated with the environmental problems, is unfit for human habitation, and nonresidential real property is “unusable” if that property, as a result of health hazards caused by or associated with the environmental problems, is unhealthy and unsuitable for occupancy.

(B) Located on a site that has been designated as a toxic or environmental hazard or as an environmental cleanup site by an agency of the State of California or the federal government.

(C) Real property that contains a structure or structures thereon prior to the completion of environmental cleanup activities, and that structure or structures are substantially damaged or destroyed as a result of those environmental cleanup activities.

(D) Stipulated by the lead governmental agency, with respect to the environmental problems or environmental cleanup of the real property, not to have been rendered uninhabitable or unusable, as applicable, as described in subparagraph (A), by any act or omission in which an owner of that real property participated or acquiesced.

(3) It shall be rebuttably presumed that an owner of the real property participated or acquiesced in any act or omission that rendered the real property uninhabitable or unusable, as applicable, if that owner is related to any individual or entity that committed that act or omission in any of the following ways:

(A) Is a spouse, parent, child, grandparent, grandchild, or sibling of that individual.

(B) Is a corporate parent, subsidiary, or affiliate of that entity.

(C) Is an owner of, or has control of, that entity.

(D) Is owned or controlled by that entity.

If this presumption is not overcome, the owner shall not receive the relief provided for in subparagraph (A) or (B) of paragraph (1). The presumption may be overcome by presentation of satisfactory evidence to the assessor, who shall not be bound by the findings of the lead governmental agency in determining whether the presumption has been overcome.

(4) This subdivision applies only to replacement property that is acquired or constructed on or after January 1, 1995, and to property repairs performed on or after that date.

[j] Effectiveness of Amendments

Unless specifically provided otherwise, amendments to this section adopted prior to November 1, 1988, shall be effective for changes in ownership that occur, and new construction that is completed, after the effective date of the amendment. Unless specifically provided otherwise, amendments to this section adopted after November 1, 1988, shall be ef-
effective for changes in ownership that occur, and new construction that is completed, on or after the effective date of the amendment. [As amended November 3, 1998.]

[Changes in State Taxes—Vote Requirement]

SEC. 3. From and after the effective date of this article, any changes in state taxes enacted for the purpose of increasing revenues collected pursuant thereto whether by increased rates or changes in methods of computation must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property may be imposed. [New section adopted June 6, 1978. Initiative measure.]

[Imposition of Special Taxes]

SEC. 4. Cities, Counties and special districts, by a two-thirds vote of the qualified electors of such district, may impose special taxes on such district, except ad valorem taxes on real property or a transaction tax or sales tax on the sale of real property within such City, County or special district. [New section adopted June 6, 1978. Operative for tax year beginning July 1, 1979. Initiative measure.]

[Effective Date of Article]

SEC. 5. This article shall take effect for the tax year beginning on July 1 following the passage of this Amendment, except Section 3 which shall become effective upon the passage of this article. [New section adopted June 6, 1978. Operative for tax year beginning July 1, 1979. Initiative measure.]

[Severability]

SEC. 6. If any section, part, clause, or phrase hereof is for any reason held to be invalid or unconstitutional, the remaining sections shall not be affected but will remain in full force and effect. [New section adopted June 6, 1978. Operative for tax year beginning July 1, 1979. Initiative measure.]

[California Children and Families First Act of 1998]

SEC. 7. Section 3 of this article does not apply to the California Children and Families First Act of 1998. [New section adopted November 3, 1998. Initiative measure.]
ARTICLE XIII B*

GOVERNMENT SPENDING LIMITATION

[Total Annual Appropriations]

SEC. 1. The total annual appropriations subject to limitation of the State and of each local government shall not exceed the appropriations limit of the entity of government for the prior year adjusted for the change in the cost of living and the change in population, except as otherwise provided in this article. [As amended June 5, 1990. Operative July 1, 1990.]

[Appropriations Limit Annual Calculation—Review]

SEC. 1.5. The annual calculation of the appropriations limit under this article for each entity of local government shall be reviewed as part of an annual financial audit. [New section adopted June 5, 1990. Operative July 1, 1990.]

[Revenues in Excess of Limitation]

SEC. 2. (a)(1) Fifty percent of all revenues received by the State in a fiscal year and in the fiscal year immediately following it in excess of the amount which may be appropriated by the State in compliance with this article during that fiscal year and the fiscal year immediately following it shall be transferred and allocated, from a fund established for that purpose, pursuant to Section 8.5 of Article XVI.

(2) Fifty percent of all revenues received by the State in a fiscal year and in the fiscal year immediately following it in excess of the amount which may be appropriated by the State in compliance with this article during that fiscal year and the fiscal year immediately following it shall be returned by a revision of tax rates or fee schedules within the next two subsequent fiscal years.

(b) All revenues received by an entity of government, other than the State, in a fiscal year and in the fiscal year immediately following it in excess of the amount which may be appropriated by the entity in compliance with this article during that fiscal year and the fiscal year immediately following it shall be returned by a revision of tax rates or fee schedules within the next two subsequent fiscal years. [As amended June 5, 1990. Operative July 1, 1990.]

[Appropriations Limit—Adjustments]

SEC. 3. The appropriations limit for any fiscal year pursuant to Sec. 1 shall be adjusted as follows:

(a) In the event that the financial responsibility of providing services is transferred, in whole or in part, whether by annexation, incorporation or

otherwise, from one entity of government to another, then for the year in which such transfer becomes effective the appropriations limit of the transferee entity shall be increased by such reasonable amount as the said entities shall mutually agree and the appropriations limit of the transferor entity shall be decreased by the same amount.

(b) In the event that the financial responsibility of providing services is transferred, in whole or in part, from an entity of government to a private entity, or the financial source for the provision of services is transferred, in whole or in part, from other revenues of an entity of government, to regulatory licenses, user charges or user fees, then for the year of such transfer the appropriations limit of such entity of government shall be decreased accordingly.

(c) (1) In the event an emergency is declared by the legislative body of an entity of government, the appropriations limit of the affected entity of government may be exceeded provided that the appropriations limits in the following three years are reduced accordingly to prevent an aggregate increase in appropriations resulting from the emergency.

(2) In the event an emergency is declared by the Governor, appropriations approved by a two-thirds vote of the legislative body of an affected entity of government to an emergency account for expenditures relating to that emergency shall not constitute appropriations subject to limitation. As used in this paragraph, “emergency” means the existence, as declared by the Governor, of conditions of disaster or extreme peril to the safety of persons and property within the State, or parts thereof, caused by such conditions as attack or probable or imminent attack by an enemy of the United States, fire, flood, drought, storm, civil disorder, earthquake, or volcanic eruption. [As amended June 5, 1990. Operative July 1, 1990.]

[Appropriations Limit—Establishment or Change]

SEC. 4. The appropriations limit imposed on any new or existing entity of government by this Article may be established or changed by the electors of such entity, subject to and in conformity with constitutional and statutory voting requirements. The duration of any such change shall be as determined by said electors, but shall in no event exceed four years from the most recent vote of said electors creating or continuing such change. [New section adopted November 6, 1979. Operative commencing first day of fiscal year following adoption. Initiative measure.]

[Contingency, Emergency, Unemployment, Etc., Funds—Contributions—Withdrawals—Transfers]

SEC. 5. Each entity of government may establish such contingency, emergency, unemployment, reserve, retirement, sinking fund, trust, or similar funds as it shall deem reasonable and proper. Contributions to any such fund, to the extent that such contributions are derived from the pro-
ceeds of taxes, shall for purposes of this Article constitute appropriations subject to limitation in the year of contribution. Neither withdrawals from any such fund, nor expenditures of (or authorizations to expend) such withdrawals, nor transfers between or among such funds, shall for purposes of this Article constitute appropriations subject to limitation. [New section adopted November 6, 1979. Operative commencing first day of fiscal year following adoption. Initiative measure.]

[Prudent State Reserve]

SEC. 5.5. Prudent State Reserve. The Legislature shall establish a prudent state reserve fund in such amount as it shall deem reasonable and necessary. Contributions to, and withdrawals from, the fund shall be subject to the provisions of Section 5 of this Article. [New section adopted November 8, 1988. Initiative measure.]

[Mandates of New Programs or Higher Levels of Service—State Subvention—Exceptions]

SEC. 6. Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates:

(a) Legislative mandates requested by the local agency affected;

(b) Legislation defining a new crime or changing an existing definition of a crime; or

(c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975. [New section adopted November 6, 1979. Operative commencing first day of fiscal year following adoption. Initiative measure.]

[Bonded Indebtedness]

SEC. 7. Nothing in this Article shall be construed to impair the ability of the State or of any local government to meet its obligations with respect to existing or future bonded indebtedness. [New section adopted November 6, 1979. Operative commencing first day of fiscal year following adoption. Initiative measure.]

[Definitions]

SEC. 8. As used in this article and except as otherwise expressly provided herein:

(a) “Appropriations subject to limitation” of the State means any authorization to expend during a fiscal year the proceeds of taxes levied by or for the State, exclusive of state subventions for the use and operation of local government (other than subventions made pursuant to Section 6) and
further exclusive of refunds of taxes, benefit payments from retirement, unemployment insurance, and disability insurance funds.

(b) “Appropriations subject to limitation” of an entity of local government means any authorization to expend during a fiscal year the proceeds of taxes levied by or for that entity and the proceeds of state subventions to that entity (other than subventions made pursuant to Section 6) exclusive of refunds of taxes.

(c) “Proceeds of taxes” shall include, but not be restricted to, all tax revenues and the proceeds to an entity of government, from (1) regulatory licenses, user charges, and user fees to the extent that those proceeds exceed the costs reasonably borne by that entity in providing the regulation, product, or service, and (2) the investment of tax revenues. With respect to any local government, “proceeds of taxes” shall include subventions received from the State, other than pursuant to Section 6, and, with respect to the State, proceeds of taxes shall exclude such subventions.

(d) “Local government” means any city, county, city and county, school district, special district, authority, or other political subdivision of or within the State.

(e) (1) “Change in the cost of living” for the State, a school district, or a community college district means the percentage change in California per capita personal income from the preceding year.

(2) “Change in the cost of living” for an entity of local government, other than a school district or a community college district, shall be either (A) the percentage change in California per capita personal income from the preceding year, or (B) the percentage change in the local assessment roll from the preceding year for the jurisdiction due to the addition of local nonresidential new construction. Each entity of local government shall select its change in the cost of living pursuant to this paragraph annually by a recorded vote of the entity’s governing body.

(f) “Change in population” of any entity of government, other than the State, a school district, or a community college district, shall be determined by a method prescribed by the Legislature.

“Change in population” of a school district or a community college district shall be the percentage change in the average daily attendance of the school district or community college district from the preceding fiscal year, as determined by a method prescribed by the Legislature.

“Change in population” of the State shall be determined by adding (1) the percentage change in the State’s population multiplied by the percentage of the State’s budget in the prior fiscal year that is expended for other than educational purposes for kindergarten and grades one to 12, inclusive, and the community colleges, and (2) the percentage change in the total statewide average daily attendance in kindergarten and grades one to 12, inclusive, and the community colleges, multiplied by the percentage of
the State’s budget in the prior fiscal year that is expended for educational purposes for kindergarten and grades one to 12, inclusive, and the community colleges.

Any determination of population pursuant to this subdivision, other than that measured by average daily attendance, shall be revised, as necessary, to reflect the periodic census conducted by the United States Department of Commerce, or successor department.

(g) “Debt service” means appropriations required to pay the cost of interest and redemption charges, including the funding of any reserve or sinking fund required in connection therewith, on indebtedness existing or legally authorized as of January 1, 1979, or on bonded indebtedness thereafter approved according to law by a vote of the electors of the issuing entity voting in an election for that purpose.

(h) The “appropriations limit” of each entity of government for each fiscal year is that amount which total annual appropriations subject to limitation may not exceed under Sections 1 and 3. However, the “appropriations limit” of each entity of government for fiscal year 1978–79 is the total of the appropriations subject to limitation of the entity for that fiscal year. For fiscal year 1978–79, state subventions to local governments, exclusive of federal grants, are deemed to have been derived from the proceeds of state taxes.

(i) Except as otherwise provided in Section 5, “appropriations subject to limitation” do not include local agency loan funds or indebtedness funds, investment (or authorizations to invest) funds of the State, or of an entity of local government in accounts at banks or savings and loan associations or in liquid securities. [As amended June 5, 1990. Operative July 1, 1990.]

Exceptions to Appropriations Subject to Limitation

SEC. 9. “Appropriations subject to limitation” for each entity of government do not include:

(a) Appropriations for debt service.
(b) Appropriations required to comply with mandates of the courts or the federal government which, without discretion, require an expenditure for additional services or which unavoidably make the provision of existing services more costly.
(c) Appropriations of any special district which existed on January 1, 1978, and which did not as of the 1977–78 fiscal year levy an ad valorem tax on property in excess of 12½ cents per $100 of assessed value; or the appropriations of any special district then existing or thereafter created by a vote of the people, which is totally funded by other than the proceeds of taxes.
(d) Appropriations for all qualified capital outlay projects, as defined by the Legislature.
Appropriations of revenue which are derived from any of the following:

(1) That portion of the taxes imposed on motor vehicle fuels for use in motor vehicles upon public streets and highways at a rate of more than nine cents ($0.09) per gallon.

(2) Sales and use taxes collected on that increment of the tax specified in paragraph (1).

(3) That portion of the weight fee imposed on commercial vehicles which exceeds the weight fee imposed on those vehicles on January 1, 1990. [As amended June 5, 1990. Operative July 1, 1990.]

[Effective Date of Article]

SEC. 10. This Article shall be effective commencing with the first day of the fiscal year following its adoption. [New section adopted November 6, 1979. Operative commencing first day of fiscal year following adoption. Initiative measure.]

[Appropriations Limit on or after July 1, 1990]

SEC. 10.5. For fiscal years beginning on or after July 1, 1990, the appropriations limit of each entity of government shall be the appropriations limit for the 1986–87 fiscal year adjusted for the changes made from that fiscal year pursuant to this article, as amended by the measure adding this section, adjusted for the changes required by Section 3. [New section adopted June 5, 1990. Operative July 1, 1990.]

[Category Added or Removed from Appropriations Subject to Limitation—Severability]

SEC. 11. If any appropriation category shall be added to or removed from appropriations subject to limitation, pursuant to final judgment of any court of competent jurisdiction and any appeal therefrom, the appropriations limit shall be adjusted accordingly. If any section, part, clause or phrase in this Article is for any reason held invalid or unconstitutional, the remaining portions of this Article shall not be affected but shall remain in full force and effect. [New section adopted November 6, 1979. Operative commencing first day of fiscal year following adoption. Initiative measure.]

[Exceptions to Appropriations Subject to Limitation]

SEC. 12. “Appropriations subject to limitation” of each entity of government shall not include appropriations of revenue from the Cigarette and Tobacco Products Surtax Fund created by the Tobacco Tax and Health Protection Act of 1988. No adjustment in the appropriations limit of any entity of government shall be required pursuant to Section 3 as a result of revenue being deposited in or appropriated from the Cigarette and To-

[Exceptions to Appropriations Subject to Limitation]

SEC. 13. “Appropriations subject to limitation” of each entity of government shall not include appropriations of revenue from the California Children and Families First Trust Fund created by the California Children and Families First Act of 1998. No adjustment in the appropriations limit of any entity of government shall be required pursuant to Section 3 as a result of revenue being deposited in or appropriated from the California Children and Families First Trust Fund. The surtax created by the California Children and Families First Act of 1998 shall not be considered General Fund revenues for the purposes of Section 8 of Article XVI. [New section adopted November 3, 1998. Initiative measure.]

ARTICLE XIII C *

VOTER APPROVAL FOR LOCAL TAX LEVIES

SECTION 1. Definitions. As used in this article:
(a) “General tax” means any tax imposed for general governmental purposes.
(b) “Local government” means any county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental entity.
(c) “Special district” means an agency of the State, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions with limited geographic boundaries including, but not limited to, school districts and redevelopment agencies.
(d) “Special tax” means any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund. [New section adopted November 5, 1996. Initiative measure.]

SEC. 2. Local Government Tax Limitation. Notwithstanding any other provision of this Constitution:
(a) All taxes imposed by any local government shall be deemed to be either general taxes or special taxes. Special purpose districts or agencies, including school districts, shall have no power to levy general taxes.
(b) No local government may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a

regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

(c) Any general tax imposed, extended, or increased, without voter approval, by any local government on or after January 1, 1995, and prior to the effective date of this article, shall continue to be imposed only if approved by a majority vote of the voters voting in an election on the issue of the imposition, which election shall be held within two years of the effective date of this article and in compliance with subdivision (b).

(d) No local government may impose, extend, or increase any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote. A special tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. [New section adopted November 5, 1996. Initiative measure.]

Sec. 3. Initiative Power for Local Taxes, Assessments, Fees and Charges. Notwithstanding any other provision of this Constitution, including, but not limited to, Sections 8 and 9 of Article II, the initiative power shall not be prohibited or otherwise limited in matters of reducing or repealing any local tax, assessment, fee or charge. The power of initiative to affect local taxes, assessments, fees and charges shall be applicable to all local governments and neither the Legislature nor any local government charter shall impose a signature requirement higher than that applicable to statewide statutory initiatives. [New section adopted November 5, 1996. Initiative measure.]

ARTICLE XIII D*

ASSESSMENT AND PROPERTY-RELATED FEE REFORM

Sec. 1. Application. Notwithstanding any other provision of law, the provisions of this article shall apply to all assessments, fees and charges, whether imposed pursuant to state statute or local government charter authority. Nothing in this article or Article XIII C shall be construed to:

(a) Provide any new authority to any agency to impose a tax, assessment, fee, or charge.

(b) Affect existing laws relating to the imposition of fees or charges as a condition of property development.

(c) Affect existing laws relating to the imposition of timber yield taxes. [New section adopted November 5, 1996. Initiative measure.]

Sec. 2. Definitions. As used in this article:

(a) “Agency” means any local government as defined in subdivision (b) of Section 1 of Article XIII C.

(b) “Assessment” means any levy or charge upon real property by an agency for a special benefit conferred upon the real property. “Assessment” includes, but is not limited to, “special assessment,” “benefit assessment,” “maintenance assessment” and “special assessment tax.”

(c) “Capital cost” means the cost of acquisition, installation, construction, reconstruction, or replacement of a permanent public improvement by an agency.

(d) “District” means an area determined by an agency to contain all parcels which will receive a special benefit from a proposed public improvement or property-related service.

(e) “Fee” or “charge” means any levy other than an ad valorem tax, a special tax, or an assessment, imposed by an agency upon a parcel or upon a person as an incident of property ownership, including a user fee or charge for a property-related service.

(f) “Maintenance and operation expenses” means the cost of rent, repair, replacement, rehabilitation, fuel, power, electrical current, care, and supervision necessary to properly operate and maintain a permanent public improvement.

(g) “Property ownership” shall be deemed to include tenancies of real property where tenants are directly liable to pay the assessment, fee, or charge in question.

(h) “Property-related service” means a public service having a direct relationship to property ownership.

(i) “Special benefit” means a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large. General enhancement of property value does not constitute “special benefit.” [New section adopted November 5, 1996. Initiative measure.]

Sec. 3. Property Taxes, Assessments, Fees and Charges Limited. (a) No tax, assessment, fee, or charge shall be assessed by any agency upon any parcel of property or upon any person as an incident of property ownership except:

(1) The ad valorem property tax imposed pursuant to Article XIII and Article XIII A.

(2) Any special tax receiving a two-thirds vote pursuant to Section 4 of Article XIII A.

(3) Assessments as provided by this article.

(4) Fees or charges for property-related services as provided by this article.

(b) For purposes of this article, fees for the provision of electrical or gas service shall not be deemed charges or fees imposed as an incident of property ownership. [New section adopted November 5, 1996. Initiative measure.]
SEC. 4. Procedures and Requirements for All Assessments. (a) An agency which proposes to levy an assessment shall identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed. The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the property-related service being provided. No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and an agency shall separate the general benefits from the special benefits conferred on a parcel. Parcels within a district that are owned or used by any agency, the State of California or the United States shall not be exempt from assessment unless the agency can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit.

(b) All assessments shall be supported by a detailed engineer’s report prepared by a registered professional engineer certified by the State of California.

(c) The amount of the proposed assessment for each identified parcel shall be calculated and the record owner of each parcel shall be given written notice by mail of the proposed assessment, the total amount thereof chargeable to the entire district, the amount chargeable to the owner’s particular parcel, the duration of the payments, the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated, together with the date, time, and location of a public hearing on the proposed assessment. Each notice shall also include, in a conspicuous place thereon, a summary of the procedures applicable to the completion, return, and tabulation of the ballots required pursuant to subdivision (d), including a disclosure statement that the existence of a majority protest, as defined in subdivision (e), will result in the assessment not being imposed.

(d) Each notice mailed to owners of identified parcels within the district pursuant to subdivision (c) shall contain a ballot which includes the agency’s address for receipt of the ballot once completed by any owner receiving the notice whereby the owner may indicate his or her name, reasonable identification of the parcel, and his or her support or opposition to the proposed assessment.

(e) The agency shall conduct a public hearing upon the proposed assessment not less than 45 days after mailing the notice of the proposed assessment to record owners of each identified parcel. At the public hearing, the agency shall consider all protests against the proposed assessment and tabulate the ballots. The agency shall not impose an assessment if there is a majority protest. A majority protest exists if, upon the conclusion of the hearing, ballots submitted in opposition to the assessment exceed the bal-
lots submitted in favor of the assessment. In tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property.

(f) In any legal action contesting the validity of any assessment, the burden shall be on the agency to demonstrate that the property or properties in question receive a special benefit over and above the benefits conferred on the public at large and that the amount of any contested assessment is proportional to, and no greater than, the benefits conferred on the property or properties in question.

(g) Because only special benefits are assessable, electors residing within the district who do not own property within the district shall not be deemed under this Constitution to have been deprived of the right to vote for any assessment. If a court determines that the Constitution of the United States or other federal law requires otherwise, the assessment shall not be imposed unless approved by a two-thirds vote of the electorate in the district in addition to being approved by the property owners as required by subdivision (e). [New section adopted November 5, 1996. Initiative measure.]

SEC. 5. Effective Date. Pursuant to subdivision (a) of Section 10 of Article II, the provisions of this article shall become effective the day after the election unless otherwise provided. Beginning July 1, 1997, all existing, new, or increased assessments shall comply with this article. Notwithstanding the foregoing, the following assessments existing on the effective date of this article shall be exempt from the procedures and approval process set forth in Section 4:

(a) Any assessment imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems or vector control. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.

(b) Any assessment imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.

(c) Any assessment the proceeds of which are exclusively used to repay bonded indebtedness of which the failure to pay would violate the Contract Impairment Clause of the Constitution of the United States.

(d) Any assessment which previously received majority voter approval from the voters voting in an election on the issue of the assessment. Subsequent increases in those assessments shall be subject to the procedures and approval process set forth in Section 4. [New section adopted November 5, 1996. Initiative measure.]
SEC. 6. Property-Related Fees and Charges. (a) Procedures for New or Increased Fees and Charges. An agency shall follow the procedures pursuant to this section in imposing or increasing any fee or charge as defined pursuant to this article, including, but not limited to, the following:

(1) The parcels upon which a fee or charge is proposed for imposition shall be identified. The amount of the fee or charge proposed to be imposed upon each parcel shall be calculated. The agency shall provide written notice by mail of the proposed fee or charge to the record owner of each identified parcel upon which the fee or charge is proposed for imposition, the amount of the fee or charge proposed to be imposed upon each, the basis upon which the amount of the proposed fee or charge was calculated, the reason for the fee or charge, together with the date, time, and location of a public hearing on the proposed fee or charge.

(2) The agency shall conduct a public hearing upon the proposed fee or charge not less than 45 days after mailing the notice of the proposed fee or charge to the record owners of each identified parcel upon which the fee or charge is proposed for imposition. At the public hearing, the agency shall consider all protests against the proposed fee or charge. If written protests against the proposed fee or charge are presented by a majority of owners of the identified parcels, the agency shall not impose the fee or charge.

(b) Requirements for Existing, New or Increased Fees and Charges. A fee or charge shall not be extended, imposed, or increased by any agency unless it meets all of the following requirements:

(1) Revenues derived from the fee or charge shall not exceed the funds required to provide the property-related service.

(2) Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.

(3) The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel.

(4) No fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. Fees or charges based on potential or future use of a service are not permitted. Standby charges, whether characterized as charges or assessments, shall be classified as assessments and shall not be imposed without compliance with Section 4.

(5) No fee or charge may be imposed for general governmental services including, but not limited to, police, fire, ambulance or library services, where the service is available to the public at large in substantially the same manner as it is to property owners. Reliance by an agency on any parcel map, including, but not limited to, an assessor’s parcel map, may be considered a significant factor in determin-
ing whether a fee or charge is imposed as an incident of property ownership for purposes of this article. In any legal action contesting the validity of a fee or charge, the burden shall be on the agency to demonstrate compliance with this article.

(c) Voter Approval for New or Increased Fees and Charges. Except for fees or charges for sewer, water, and refuse collection services, no property-related fee or charge shall be imposed or increased unless and until that fee or charge is submitted and approved by a majority vote of the property owners of the property subject to the fee or charge or, at the option of the agency, by a two-thirds vote of the electorate residing in the affected area. The election shall be conducted not less than 45 days after the public hearing. An agency may adopt procedures similar to those for increases in assessments in the conduct of elections under this subdivision.

(d) Beginning July 1, 1997, all fees or charges shall comply with this section. [New section adopted November 5, 1996. Initiative measure.]

ARTICLE XIV. [Repealed June 8, 1976. See Article XIV, below.]

ARTICLE XIV*

LABOR RELATIONS

SECTION 1. [Repealed June 8, 1976. See Section 1, below.]

[Minimum Wages and General Welfare of Employees]

SEC. 1. The Legislature may provide for minimum wages and for the general welfare of employees and for those purposes may confer on a commission legislative, executive, and judicial powers. [New section adopted June 8, 1976.]

SEC. 2. [Repealed June 8, 1976. See Section 2, below.]

[Eight-hour Workday]

SEC. 2. Worktime of mechanics or workers on public works may not exceed eight hours a day except in wartime or extraordinary emergencies that endanger life or property. The Legislature shall provide for enforcement of this section. [New section adopted June 8, 1976.]

SEC. 3. [Repealed June 8, 1976. See Section 3, below.]

[Mechanics’ Liens]

SEC. 3. Mechanics, persons furnishing materials, artisans, and laborers of every class, shall have a lien upon the property upon which they have bestowed labor or furnished material for the value of such labor done

* New Article XIV adopted June 8, 1976.
and material furnished; and the Legislature shall provide, by law, for the speedy and efficient enforcement of such liens. [New section adopted June 8, 1976.]

SEC. 4. [Repealed June 8, 1976. See Section 4, below.]

[Workers’ Compensation]

SEC. 4. The Legislature is hereby expressly vested with plenary power, unlimited by any provision of this Constitution, to create, and enforce a complete system of workers’ compensation, by appropriate legislation, and in that behalf to create and enforce a liability on the part of any or all persons to compensate any or all of their workers for injury or disability, and their dependents for death incurred or sustained by the said workers in the course of their employment, irrespective of the fault of any party. A complete system of workers’ compensation includes adequate provisions for the comfort, health and safety and general welfare of any and all workers and those dependent upon them for support to the extent of relieving from the consequences of any injury or death incurred or sustained by workers in the course of their employment, irrespective of the fault of any party; also full provision for securing safety in places of employment; full provision for such medical, surgical, hospital and other remedial treatment as is requisite to cure and relieve from the effects of such injury; full provision for adequate insurance coverage against liability to pay or furnish compensation; full provision for regulating such insurance coverage in all its aspects, including the establishment and management of a state compensation insurance fund; full provision for otherwise securing the payment of compensation; and full provision for vesting power, authority and jurisdiction in an administrative body with all the requisite governmental functions to determine any dispute or matter arising under such legislation, to the end that the administration of such legislation shall accomplish substantial justice in all cases expeditiously, inexpensively, and without incumbrance of any character; all of which matters are expressly declared to be the social public policy of this State, binding upon all departments of the state government.

The Legislature is vested with plenary powers, to provide for the settlement of any disputes arising under such legislation by arbitration, or by an industrial accident commission, by the courts, or by either, any, or all of these agencies, either separately or in combination, and may fix and control the method and manner of trial of any such dispute, the rules of evidence and the manner of review of decisions rendered by the tribunal or tribunals designated by it; provided, that all decisions of any such tribunal shall be subject to review by the appellate courts of this State. The Legislature may combine in one statute all the provisions for a complete system of workers’ compensation, as herein defined.
The Legislature shall have power to provide for the payment of an award to the State in the case of the death, arising out of and in the course of the employment, of an employee without dependents, and such awards may be used for the payment of extra compensation for subsequent injuries beyond the liability of a single employer for awards to employees of the employer.

Nothing contained herein shall be taken or construed to impair or render ineffectual in any measure the creation and existence of the industrial accident commission of this State or the state compensation insurance fund, the creation and existence of which, with all the functions vested in them, are hereby ratified and confirmed. [New section adopted June 8, 1976.]

Sec. 5. [Repealed November 6, 1990. See Section 5, below.]

[Inmate Labor]

Section 5. (a) The Director of Corrections or any county Sheriff or other local government official charged with jail operations, may enter into contracts with public entities, nonprofit or for profit organizations, entities, or businesses for the purpose of conducting programs which use inmate labor. Such programs shall be operated and implemented pursuant to statutes enacted by or in accordance with the provisions of the Prison Inmate Labor Initiative of 1990, and by rules and regulations prescribed by the Director of Corrections and, for county jail programs, by local ordinances.

(b) No contract shall be executed with an employer that will initiate employment by inmates in the same job classification as non-inmate employees of the same employer who are on strike, as defined in Section 1132.6 of the Labor Code, as it reads on January 1, 1990, or who are subject to lockout, as defined in Section 1132.8 of the Labor Code, as it reads on January 1, 1990. Total daily hours worked by inmates employed in the same job classification as non-inmate employees of the same employer who are on strike, as defined in Section 1132.6 of the Labor Code, as it reads on January 1, 1990, or who are subject to lockout, as defined in Section 1132.8 of the Labor Code, as it reads on January 1, 1990, shall not exceed, for the duration of the strike, the average daily hours worked for the preceding six months, or if the program has been in operation for less than six months, the average for the period of operation.

(c) Nothing in this section shall be interpreted as creating a right of inmates to work. [New section adopted November 6, 1990. Initiative measure.]
ARTICLE XV

[Repealed June 8, 1976. See Article XV, below.]

ARTICLE XV*

USURY

[Rate of Interest]

Section 1. The rate of interest upon the loan or forbearance of any money, goods, or things in action, or on accounts after demand, shall be 7 percent per annum but it shall be competent for the parties to any loan or forbearance of any money, goods or things in action to contract in writing for a rate of interest:

(1) For any loan or forbearance of any money, goods, or things in action, if the money, goods, or things in action are for use primarily for personal, family, or household purposes, at a rate not exceeding 10 percent per annum; provided, however, that any loan or forbearance of any money, goods or things in action the proceeds of which are used primarily for the purchase, construction or improvement of real property shall not be deemed to be a use primarily for personal, family or household purposes; or

(2) For any loan or forbearance of any money, goods, or things in action for any use other than specified in paragraph (1), at a rate not exceeding the higher of (a) 10 percent per annum or (b) 5 percent per annum plus the rate prevailing on the 25th day of the month preceding the earlier of (i) the date of execution of the contract to make the loan or forbearance, or (ii) the date of making the loan or forbearance established by the Federal Reserve Bank of San Francisco on advances to member banks under Sections 13 and 13a of the Federal Reserve Act as now in effect or hereafter from time to time amended (or if there is no such single determinable rate of advances, the closest counterpart of such rate as shall be designated by the Superintendent of Banks of the State of California unless some other person or agency is delegated such authority by the Legislature).

[Charges]

No person, association, copartnership or corporation shall by charging any fee, bonus, commission, discount or other compensation receive from a borrower more than the interest authorized by this section upon any loan or forbearance of any money, goods or things in action.

[Exemptions]

However, none of the above restrictions shall apply to any obligations of, loans made by, or forbearances of, any building and loan association as defined in and which is operated under that certain act known as the

* New Article XV adopted June 8, 1976.
"Building and Loan Association Act," approved May 5, 1931, as amended, or to any corporation incorporated in the manner prescribed in and operating under that certain act entitled "An act defining industrial loan companies, providing for their incorporation, powers and supervision," approved May 18, 1917, as amended, or any corporation incorporated in the manner prescribed in and operating under that certain act entitled "An act defining credit unions, providing for their incorporation, powers, management and supervision," approved March 31, 1927, as amended or any duly licensed pawnbroker or personal property broker, or any loans made or arranged by any person licensed as a real estate broker by the State of California and secured in whole or in part by liens on real property, or any bank as defined in and operating under that certain act known as the "Bank Act," approved March 1, 1909, as amended, or any bank created and operating under and pursuant to any laws of this State or of the United States of America or any nonprofit cooperative association organized under Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code in loaning or advancing money in connection with any activity mentioned in said title or any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, live stock, poultry and bee products on a cooperative nonprofit basis in loaning or advancing money to the members thereof or in connection with any such business or any corporation securing money or credit from any federal intermediate credit bank, organized and existing pursuant to the provisions of an act of Congress entitled "Agricultural Credits Act of 1923," as amended in loaning or advancing credit so secured, or any other class of persons authorized by statute, or to any successor in interest to any loan or forbearance exempted under this article, nor shall any such charge of any said exempted classes of persons be considered in any action or for any purpose as increasing or affecting or as connected with the rate of interest hereinbefore fixed. The Legislature may from time to time prescribe the maximum rate per annum of, or provide for the supervision, or the filing of a schedule of, or in any manner fix, regulate or limit, the fees, bonuses, commissions, discounts or other compensation which all or any of the said exempted classes of persons may charge or receive from a borrower in connection with any loan or forbearance of any money, goods or things in action.

[Judgments Rendered in Court—Rate of Interest]

The rate of interest upon a judgment rendered in any court of this State shall be set by the Legislature at not more than 10 percent per annum. Such rate may be variable and based upon interest rates charged by federal agencies or economic indicators, or both.
In the absence of the setting of such rate by the Legislature, the rate of interest on any judgment rendered in any court of the State shall be 7 percent per annum.

[Scope of Section]

The provisions of this section shall supersede all provisions of this Constitution and laws enacted thereunder in conflict therewith. [As amended November 6, 1979.]

SEC. 2. [Repealed June 8, 1976.]

SEC. 3. [Repealed June 8, 1976.]

ARTICLE XVI
PUBLIC FINANCE

[Heading as amended November 5, 1974.]

[State Indebtedness—Limitation—Two-thirds Vote to Submit Bond Law—Submission of Law to Electors]

SECTION 1. The Legislature shall not, in any manner create any debt or debts, liability or liabilities, which shall, singly or in the aggregate with any previous debts or liabilities, exceed the sum of three hundred thousand dollars ($300,000), except in case of war to repel invasion or suppress insurrection, unless the same shall be authorized by law for some single object or work to be distinctly specified therein which law shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability as it falls due, and also to pay and discharge the principal of such debt or liability within 50 years of the time of the contracting thereof, and shall be irrepealable until the principal and interest thereon shall be paid and discharged, and such law may make provision for a sinking fund to pay the principal of such debt or liability to commence at a time after the incurring of such debt or liability of not more than a period of one-fourth of the time of maturity of such debt or liability; but no such law shall take effect unless it has been passed by a two-thirds vote of all the members elected to each house of the Legislature and until, at a general election or at a direct primary, it shall have been submitted to the people and shall have received a majority of all the votes cast for and against it at such election; and all moneys raised by authority of such law shall be applied only to the specific object therein stated or to the payment of the debt thereby created. Full publicity as to matters to be voted upon by the people is afforded by the setting out of the complete text of the proposed laws, together with the arguments for and against them, in the ballot pamphlet mailed to each elector preceding the election at which they are submitted, and the only requirement for publication of such law shall be that it be set out at length in ballot pamphlets which the Secretary of State shall cause
to be printed. The Legislature may, at any time after the approval of such law by the people, reduce the amount of the indebtedness authorized by the law to an amount not less than the amount contracted at the time of the reduction, or it may repeal the law if no debt shall have been contracted in pursuance thereof.

Notwithstanding any other provision of this Constitution, Members of the Legislature who are required to meet with the State Allocation Board shall have equal rights and duties with the nonlegislative members to vote and act upon matters pending or coming before such board for the allocation and apportionment of funds to school districts for school construction purposes or purposes related thereto.

Notwithstanding any other provision of this constitution, or of any bond act to the contrary, if any general obligation bonds of the State heretofore or hereafter authorized by vote of the people have been offered for sale and not sold, the Legislature may raise the maximum rate of interest payable on all general obligation bonds authorized but not sold, whether or not such bonds have been offered for sale, by a statute passed by a two-thirds vote of all members elected to each house thereof.

The provisions of Senate Bill No. 763† of the 1969 Regular Session, which authorize an increase of the state general obligation bond maximum interest rate from 5 percent to an amount not in excess of 7 percent and eliminate the maximum rate of interest payable on notes given in anticipation of the sale of such bonds, are hereby ratified. [As amended June 2, 1970.]

[General Obligation Bond Proceeds Fund]

SEC. 1.5. The Legislature may create and establish a “General Obligation Bond Proceeds Fund” in the State Treasury, and may provide for the proceeds of the sale of general obligation bonds of the State heretofore or hereafter issued, including any sums paid as accrued interest thereon, under any or all acts authorizing the issuance of such bonds, to be paid into or transferred to, as the case may be, the “General Obligation Bond Proceeds Fund.” Accounts shall be maintained in the “General Obligation Bond Proceeds Fund” of all moneys deposited in the State Treasury to the credit of that fund and the proceeds of each bond issue shall be maintained as a separate and distinct account and shall be paid out only in accordance with the law authorizing the issuance of the particular bonds from which the proceeds were derived. The Legislature may abolish, subject to the conditions of this section, any fund in the State Treasury heretofore or hereafter created by any act for the purpose of having deposited therein the proceeds from the issuance of bonds if such proceeds are transferred to or paid into the “General Obligation Bond Proceeds Fund” pursuant to the authority granted in this section; provided, however, that nothing in this

† Chapter 740.
section shall prevent the Legislature from re-establishing any bond proceeds fund so abolished and transferring back to its credit all proceeds in the “General Obligation Bond Proceeds Fund” which constitute the proceeds of the particular bond fund being re-established. [New section adopted November 6, 1962.]

SEC. 2. [Repealed November 6, 1962. See Section 2, below.]

[Bond Issues—Submission by Constitutional Amendment Prohibited—Repeal of Certain Constitutional Provisions]

SEC. 2. (a) No amendment to this Constitution which provides for the preparation, issuance and sale of bonds of the State of California shall hereafter be submitted to the electors, nor shall any such amendment to the Constitution hereafter submitted to or approved by the electors become effective for any purpose.

Each measure providing for the preparation, issuance and sale of bonds of the State of California shall hereafter be submitted to the electors in the form of a bond act or statute.

(b) The provisions of this Constitution enumerated in subdivision (c) of this section are repealed and such provisions are continued as statutes which have been approved, adopted, legalized, ratified, validated, and made fully and completely effective, by means of the adoption by the electorrate of a ratifying constitutional amendment, except that the Legislature, in addition to whatever powers it possessed under such provisions, may amend or repeal such provisions when the bonds issued thereunder have been fully retired and when no rights thereunder will be damaged.

(c) The enumerated provisions of this Constitution are: Article XVI, Sections 2, 3, 4, 4 1/2, 5, 6, 8, 8 1/2, 15, 16, 16.5, 17, 18, 19, 19.5, 20 and 21. [New section adopted November 6, 1962.]

[Appropriations]

SEC. 3. No money shall ever be appropriated or drawn from the State Treasury for the purpose or benefit of any corporation, association, asylum, hospital, or any other institution not under the exclusive management and control of the State as a state institution, nor shall any grant or donation of property ever be made thereto by the State, except that notwithstanding anything contained in this or any other section of the Constitution:

[Federal Funds]

(1) Whenever federal funds are made available for the construction of hospital facilities by public agencies and nonprofit corporations organized to construct and maintain such facilities, nothing in this Constitution shall prevent the Legislature from making state money available for that pur-
pose, or from authorizing the use of such money for the construction of
county, or city and county, or city, or town, shall pro-
hospital facilities by nonprofit corporations organized to construct and
maintain such facilities.

[Institution for Support of Orphans or Aged Indigents]

(2) The Legislature shall have the power to grant aid to the institutions
conducted for the support and maintenance of minor orphans, or half-
orphans, or abandoned children, or children of a father who is incapaci-
tated for gainful work by permanent physical disability or is suffering
from tuberculosis in such a stage that he cannot pursue a gainful occupa-
tion, or aged persons in indigent circumstances—such aid to be granted by
a uniform rule, and proportioned to the number of inmates of such respec-
tive institutions.

[Needy Blind]

(3) The Legislature shall have the power to grant aid to needy blind
persons not inmates of any institution supported in whole or in part by the
State or by any of its political subdivisions, and no person concerned with
the administration of aid to needy blind persons shall dictate how any ap-
plicant or recipient shall expend such aid granted him, and all money paid
to a recipient of such aid shall be intended to help him meet his individual
needs and is not for the benefit of any other person, and such aid when
granted shall not be construed as income to any person other than the blind
recipient of such aid, and the State Department of Social Welfare shall take
all necessary action to enforce the provisions relating to aid to needy blind
persons as heretofore stated.

[Physically Handicapped Persons]

(4) The Legislature shall have power to grant aid to needy physically
handicapped persons not inmates of any institution under the supervision
of the Department of Mental Hygiene and supported in whole or in part by
the State or by any institution supported in whole or part by any political
subdivision of the State.

[Management of Institutions]

(5) The State shall have at any time the right to inquire into the man-
gagement of such institutions.

[Orphans, Aged Indigents, Needy Blind—County Support]

(6) Whenever any county, or city and county, or city, or town, shall pro-
vide for the support of minor orphans, or half-orphans, or abandoned chil-
dren, or children of a father who is incapacitated for gainful work by per-
manent physical disability or is suffering from tuberculosis in such a stage
that he cannot pursue a gainful occupation, or aged persons in indigent cir-
cumstances, or needy blind persons not inmates of any institution sup-
ported in whole or in part by the State or by any of its political subdivisions, or needy physically handicapped persons not inmates of any institution under the supervision of the Department of Mental Hygiene and supported in whole or in part by the State or by any institution supported in whole or part by any political subdivision of the State; such county, city and county, city, or town shall be entitled to receive the same pro rata appropriations as may be granted to such institutions under church, or other control.

[Receipts and Expenditures of Public Moneys]

An accurate statement of the receipts and expenditures of public moneys shall be attached to and published with the laws at every regular session of the Legislature. [New section adopted November 5, 1974.]

[Loan Guarantees re Nonprofit Corporations and Public Agencies]

SEC. 4. The Legislature shall have the power to insure or guarantee loans made by private or public lenders to nonprofit corporations and public agencies, the proceeds of which are to be used for the construction, expansion, enlargement, improvement, renovation or repair of any public or nonprofit hospital, hospital facility, or extended care facility, facility for the treatment of mental illness, or all of them, including any outpatient facility and any other facility useful and convenient in the operation of the hospital and any original equipment for any such hospital or facility, or both.

No provision of this Constitution, including but not limited to, Section 1 of Article XVI and Section 14 of Article XI, shall be construed as a limitation upon the authority granted to the Legislature by this section. [New section adopted November 5, 1974.]

SEC. 4 1⁄2. [Repealed November 6, 1962.]

[Religious Institutions—Grants Prohibited]

SEC. 5. Neither the Legislature, nor any county, city and county, township, school district, or other municipal corporation, shall ever make an appropriation, or pay from any public fund whatever, or grant anything to or in aid of any religious sect, church, creed, or sectarian purpose, or help to support or sustain any school, college, university, hospital, or other institution controlled by any religious creed, church, or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the State, or any city, city and county, town, or other municipal corporation for any religious creed, church, or sectarian purpose whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to Section 3 of Article XVI. [New section adopted November 5, 1974.]
Gifts or Loans of Public Moneys or Pledging of Credit Prohibited—Stock of Corporations

SEC. 6. The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State, or of any county, city and county, city, township or other political corporation or subdivision of the State now existing, or that may be hereafter established, in aid of or to any person, association, or corporation, whether municipal or otherwise, or to pledge the credit thereof, in any manner whatever, for the payment of the liabilities of any individual, association, municipal or other corporation whatever; nor shall it have power to make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to Section 3 of Article XVI; and it shall not have power to authorize the State, or any political subdivision thereof, to subscribe for stock, or to become a stockholder in any corporation whatever; provided, further, that irrigation districts for the purpose of acquiring the control of any entire international water system necessary for its use and purposes, a part of which is situated in the United States, and a part thereof in a foreign country, may in the manner authorized by law, acquire the stock of any foreign corporation which is the owner of, or which holds the title to the part of such system situated in a foreign country; provided, further, that irrigation districts for the purpose of acquiring water and water rights and other property necessary for their uses and purposes, may acquire and hold the stock of corporations, domestic or foreign, owning waters, water rights, canals, waterworks, franchises or concessions subject to the same obligations and liabilities as are imposed by law upon all other stockholders in such corporation; and

Insurance Pooling Arrangements

Provided, further, that this section shall not prohibit any county, city and county, city, township, or other political corporation or subdivision of the State from joining with other such agencies in providing for the payment of workers’ compensation, unemployment compensation, tort liability, or public liability losses incurred by such agencies, by entry into an insurance pooling arrangement under a joint exercise of powers agreement, or by membership in such publicly-owned nonprofit corporation or other public agency as may be authorized by the Legislature; and

Aid to Veterans

Provided, further, that nothing contained in this Constitution shall prohibit the use of state money or credit, in aiding veterans who served in the military or naval service of the United States during the time of war, in the acquisition of, or payments for, (1) farms or homes, or in projects of land settlement or in the development of such farms or homes or land settle-
ment projects for the benefit of such veterans, or (2) any business, land or any interest therein, buildings, supplies, equipment, machinery, or tools, to be used by the veteran in pursuing a gainful occupation; and

[Disaster Assistance]

Provided, further, that nothing contained in this Constitution shall prohibit the State, or any county, city and county, city, township, or other political corporation or subdivision of the State from providing aid or assistance to persons, if found to be in the public interest, for the purpose of clearing debris, natural materials, and wreckage from privately owned lands and waters deposited thereon or therein during a period of a major disaster or emergency, in either case declared by the President. In such case, the public entity shall be indemnified by the recipient from the award of any claim against the public entity arising from the rendering of such aid or assistance. Such aid or assistance must be eligible for federal reimbursement for the cost thereof.

[Temporary Transfers of Funds to Political Subdivisions]

And provided, still further, that notwithstanding the restrictions contained in this Constitution, the treasurer of any city, county, or city and county shall have power and the duty to make such temporary transfers from the funds in custody as may be necessary to provide funds for meeting the obligations incurred for maintenance purposes by any city, county, city and county, district, or other political subdivision whose funds are in custody and are paid out solely through the treasurer’s office. Such temporary transfer of funds to any political subdivision shall be made only upon resolution adopted by the governing body of the city, county, or city and county directing the treasurer of such city, county, or city and county to make such temporary transfer. Such temporary transfer of funds to any political subdivision shall not exceed 85 percent of the anticipated revenues accruing to such political subdivision, shall not be made prior to the first day of the fiscal year nor after the last Monday in April of the current fiscal year, and shall be replaced from the revenues accruing to such political subdivision before any other obligation of such political subdivision is met from such revenue. [As amended November 2, 1982.]

[Controller’s Warrants]

Sec. 7. Money may be drawn from the Treasury only through an appropriation made by law and upon a Controller’s duly drawn warrant. [New section adopted November 5, 1974.]

[School Funding Priority]

Sec. 8. (a) From all state revenues there shall first be set apart the moneys to be applied by the State for support of the public school system and public institutions of higher education.
(b) Commencing with the 1990–91 fiscal year, the moneys to be applied by the State for the support of school districts and community college districts shall be not less than the greater of the following amounts:

1. The amount which, as a percentage of General Fund revenues which may be appropriated pursuant to Article XIII B, equals the percentage of General Fund revenues appropriated for school districts and community college districts, respectively, in fiscal year 1986–87.

2. The amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes shall not be less than the total amount from these sources in the prior fiscal year, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment and adjusted for the change in the cost of living pursuant to paragraph (1) of subdivision (e) of Section 8 of Article XIII B. This paragraph shall be operative only in a fiscal year in which the percentage growth in California per capita personal income is less than or equal to the percentage growth in per capita General Fund revenues plus one half of one percent.

3. (A) The amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes shall equal the total amount from these sources in the prior fiscal year, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment and adjusted for the change in per capita General Fund revenues.

(B) In addition, an amount equal to one-half of one percent times the prior year total allocations to school districts and community colleges from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment.

(C) This paragraph (3) shall be operative only in a fiscal year in which the percentage growth in California per capita personal income in a fiscal year is greater than the percentage growth in per capital General Fund revenues plus one half of one percent.

(c) In any fiscal year, if the amount computed pursuant to paragraph (1) of subdivision (b) exceeds the amount computed pursuant to paragraph (2) of subdivision (b) by a difference that exceeds one and one-half percent of General Fund revenues, the amount in excess of one and one-half percent of General Fund revenues shall not be considered allocations to school districts and community colleges for purposes of computing the amount of state aid pursuant to paragraph (2) or 3 of subdivision (b) in the subsequent fiscal year.
(d) In any fiscal year in which school districts and community college districts are allocated funding pursuant to paragraph (3) of subdivision (b) or pursuant to subdivision (h), they shall be entitled to a maintenance factor, equal to the difference between (1) the amount of General Fund moneys which would have been appropriated pursuant to paragraph (2) of subdivision (b) if that paragraph had been operative or the amount of General Fund moneys which would have been appropriated pursuant to subdivision (b) had subdivision (b) not been suspended, and (2) the amount of General Fund moneys actually appropriated to school districts and community college districts in that fiscal year.

(e) The maintenance factor for school districts and community college districts determined pursuant to subdivision (d) shall be adjusted annually for changes in enrollment, and adjusted for the change in the cost of living pursuant to paragraph (1) of subdivision (e) of Section 8 of Article XIII B, until it has been allocated in full. The maintenance factor shall be allocated in a manner determined by the Legislature in each fiscal year in which the percentage growth in per capita General Fund revenues exceeds the percentage growth in California per capita personal income. The maintenance factor shall be reduced each year by the amount allocated by the Legislature in that fiscal year. The minimum maintenance factor amount to be allocated in a fiscal year shall be equal to the product of General Fund revenues from proceeds of taxes and one-half of the difference between the percentage growth in per capita General Fund revenues from proceeds of taxes and in California per capita personal income, not to exceed the total dollar amount of the maintenance factor.

(f) For purposes of this section, “changes in enrollment” shall be measured by the percentage change in average daily attendance. However, in any fiscal year, there shall be no adjustment for decreases in enrollment between the prior fiscal year and the current fiscal year unless there have been decreases in enrollment between the second prior fiscal year and the prior fiscal year and between the third prior fiscal year and the second prior fiscal year.

(h) Subparagraph (B) of paragraph (3) of subdivision (b) may be suspended for one year only when made part of or included within any bill enacted pursuant to Section 12 of Article IV. All other provisions of subdivision (b) may be suspended for one year by the enactment of an urgency statute pursuant to Section 8 of Article IV, provided that the urgency statute may not be made part of or included within any bill enacted pursuant to Section 12 of Article IV. [As amended June 5, 1990. Operative July 1, 1990.]

Sec. 8½. [Repealed November 6, 1962.]
Allocations to State School Fund

Section 8.5. (a) In addition to the amount required to be applied for the support of school districts and community college districts pursuant to Section 8, the Controller shall during each fiscal year transfer and allocate all revenues available pursuant to paragraph 1 of subdivision (a) of Section 2 of Article XIII B to that portion of the State School Fund restricted for elementary and high school purposes, and to that portion of the State School Fund restricted for community college purposes, respectively, in proportion to the enrollment in school districts and community college districts respectively.

(1) With respect to funds allocated to that portion of the State School Fund restricted for elementary and high school purposes, no transfer or allocation of funds pursuant to this section shall be required at any time that the Director of Finance and the Superintendent of Public Instruction mutually determine that current annual expenditures per student equal or exceed the average annual expenditure per student of the 10 states with the highest annual expenditures per student for elementary and high schools, and that average class size equals or is less than the average class size of the 10 states with the lowest class size for elementary and high schools.

(2) With respect to funds allocated to that portion of the State School Fund restricted for community college purposes, no transfer or allocation of funds pursuant to this section shall be required at any time that the Director of Finance and the Chancellor of the California Community Colleges mutually determine that current annual expenditures per student for community colleges in this State equal or exceed the average annual expenditure per student of the 10 states with the highest annual expenditure per student for community colleges.

(b) Notwithstanding the provisions of Article XIII B, funds allocated pursuant to this section shall not constitute appropriations subject to limitation.

(c) From any funds transferred to the State School Fund pursuant to subdivision (a), the Controller shall each year allocate to each school district and community college district an equal amount per enrollment in school districts from the amount in that portion of the State School Fund restricted for elementary and high school purposes and an equal amount per enrollment in community college districts from that portion of the State School Fund restricted for community college purposes.

(d) All revenues allocated pursuant to subdivision (a) shall be expended solely for the purposes of instructional improvement and accountability as required by law.

(e) Any school district maintaining an elementary or secondary school shall develop and cause to be prepared an annual audit accounting for such funds and shall adopt a School Accountability Report Card for each school. [As amended June 5, 1990. Operative July 1, 1990.]
SEC. 9. Money collected under any state law relating to the protection or propagation of fish and game shall be used for activities relating thereto. [New section adopted November 5, 1974.]

[New section adopted November 5, 1974.]

Aged Aid—Federal-State Co-operation

SEC. 10. Whenever the United States government or any officer or agency thereof shall provide pensions or other aid for the aged, cooperation by the State therewith and therein is hereby authorized in such manner and to such extent as may be provided by law.

The money expended by any county, city and county, municipality, district or other political subdivision of this State made available under the provisions of this section shall not be considered as a part of the base for determining the maximum expenditure for any given year permissible under Section 20 of Article XI of this Constitution independent of the vote of the electors or authorization by the State Board of Equalization. [As amended November 6, 1962.]

Relief Administration

SEC. 11. The Legislature has plenary power to provide for the administration of any constitutional provisions or laws heretofore or hereafter enacted concerning the administration of relief, and to that end may modify, transfer, or enlarge the powers vested in any state agency or officer concerned with the administration of relief or laws appertaining thereto. The Legislature, or the people by initiative, shall have power to amend, alter, or repeal any law relating to the relief of hardship and destitution, whether such hardship and destitution results from unemployment or from other causes, or to provide for the administration of the relief of hardship and destitution, whether resulting from unemployment or from other causes, either directly by the State or through the counties of the State, and to grant such aid to the counties therefor, or make such provision for reimbursement of the counties by the State, as the Legislature deems proper. [As amended November 6, 1962.]

SEC. 12. [Repealed November 6, 1962.]

Legislative Power to Release Encumbrances Taken as Security for Aid to Aged

SEC. 13. Notwithstanding any other provision of this Constitution, the Legislature shall have power to release, rescind, cancel, or otherwise nullify in whole or in part any encumbrance on property, personal obligation, or other form of security heretofore or hereafter exacted or imposed by the Legislature to secure the repayment to, or reimbursement of, the State, and the counties or other agencies of the state government, of aid lawfully granted to and received by aged persons. [As amended November 6, 1962.]

† Section 20, Article XI, repealed June 2, 1970.
SEC. 14. The Legislature may provide for the issuance of revenue bonds to finance the acquisition, construction, and installation of environmental pollution control facilities, including the acquisition of all technological facilities necessary or convenient for pollution control, and for the lease or sale of such facilities to persons, associations, or corporations, other than municipal corporations; provided, that such revenue bonds shall not be secured by the taxing power of the State; and provided, further, that the Legislature may, by resolution adopted by either house, prohibit or limit any proposed issuance of such revenue bonds. No provision of this Constitution, including, but not limited to, Section 25 of Article XIII and Sections 1 and 2 of Article XVI, shall be construed as a limitation upon the authority granted to the Legislature pursuant to this section. Nothing herein contained shall authorize any public agency to operate any industrial or commercial enterprise. [New section adopted November 7, 1972.]

SEC. 14.5. The Legislature may provide for the issuance of revenue bonds to finance the acquisition, construction, and installation of facilities utilizing cogeneration technology, solar power, biomass, or any other alternative source the Legislature may deem appropriate, including the acquisition of all technological facilities necessary or convenient for the use of alternative sources, and for the lease or sale of such facilities to persons, associations, or corporations, other than municipal corporations; provided, that such revenue bonds shall not be secured by the taxing power of the State; and provided, further, that the Legislature may, by resolution adopted by both houses, prohibit or limit any proposed issuance of such revenue bonds. No provision of this Constitution, including, but not limited to, Sections 1, 2, and 6, of this article, shall be construed as a limitation upon the authority granted to the Legislature pursuant to this section. Nothing contained herein shall authorize any public agency to operate any industrial or commercial enterprise. [New section adopted June 3, 1980.]

SEC. 15. A public body authorized to issue securities to provide public parking facilities and any other public body whose territorial area includes such facilities are authorized to make revenues from street parking meters available as additional security. [New section adopted November 5, 1974.]

SEC. 16. All property in a redevelopment project established under the Community Redevelopment Law as now existing or hereafter amended, except publicly owned property not subject to taxation by re-
son of that ownership, shall be taxed in proportion to its value as provided in Section 1 of this article, and those taxes (the word "taxes" as used herein includes, but is not limited to, all levies on an ad valorem basis upon land or real property) shall be levied and collected as other taxes are levied and collected by the respective taxing agencies.

The Legislature may provide that any redevelopment plan may contain a provision that the taxes, if any, so levied upon the taxable property in a redevelopment project each year by or for the benefit of the State of California, any city, county, city and county, district, or other public corporation (hereinafter sometimes called "taxing agencies") after the effective date of the ordinance approving the redevelopment plan, shall be divided as follows:

(a) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of those taxing agencies upon the total sum of the assessed value of the taxable property in the redevelopment project as shown upon the assessment roll used in connection with the taxation of that property by the taxing agency, last equalized prior to the effective date of the ordinance, shall be allocated to, and when collected shall be paid into, the funds of the respective taxing agencies as taxes by or for those taxing agencies on all other property are paid (for the purpose of allocating taxes levied by or for any taxing agency or agencies which did not include the territory in a redevelopment project on the effective date of the ordinance but to which that territory has been annexed or otherwise included after the ordinance's effective date, the assessment roll of the county last equalized on the effective date of that ordinance shall be used in determining the assessed valuation of the taxable property in the project on that effective date); and

(b) Except as provided in subdivision (c), that portion of the levied taxes each year in excess of that amount shall be allocated to and when collected shall be paid into a special fund of the redevelopment agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed or otherwise) incurred by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment project. Unless and until the total assessed valuation of the taxable property in a redevelopment project exceeds the total assessed value of the taxable property in the project as shown by the last equalized assessment roll referred to in subdivision (a), all of the taxes levied and collected upon the taxable property in the redevelopment project shall be paid into the funds of the respective taxing agencies. When the loans, advances, and indebtedness, if any, and interest thereon, have been paid, then all moneys thereafter received from taxes upon the taxable property in the redevelopment project shall be paid into the funds of the respective taxing agencies as taxes on all other property are paid.
(c) That portion of the taxes identified in subdivision (b) which are attributable to a tax rate levied by a taxing agency for the purpose of producing revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness for the acquisition or improvement of real property shall be allocated to, and when collected shall be paid into, the fund of that taxing agency. This paragraph shall only apply to taxes levied to repay bonded indebtedness approved by the voters of the taxing agency on or after January 1, 1989.

The Legislature may also provide that in any redevelopment plan or in the proceedings for the advance of moneys, or making of loans, or the incurring of any indebtedness (whether funded, refunded, assumed, or otherwise) by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment project, the portion of taxes identified in subdivision (b), exclusive of that portion identified in subdivision (c), may be irrevocably pledged for the payment of the principal of and interest on those loans, advances, or indebtedness.

It is intended by this section to empower any redevelopment agency, city, county, or city and county under any law authorized by this section to exercise the provisions hereof separately or in combination with powers granted by the same or any other law relative to redevelopment agencies. This section shall not affect any other law or laws relating to the same or a similar subject but is intended to authorize an alternative method of procedure governing the subject to which it refers.

The Legislature shall enact those laws as may be necessary to enforce the provisions of this section. [As amended November 8, 1988.]

SEC. 16.5. [Repealed November 6, 1962.]

[State’s Credit—Investment of Public Pension or Retirement Funds]

SEC. 17. The State shall not in any manner loan its credit, nor shall it subscribe to, or be interested in the stock of any company, association, or corporation, except that the State and each political subdivision, district, municipality, and public agency thereof is hereby authorized to acquire and hold shares of the capital stock of any mutual water company or corporation when the stock is so acquired or held for the purpose of furnishing a supply of water for public, municipal or governmental purposes; and the holding of the stock shall entitle the holder thereof to all of the rights, powers and privileges, and shall subject the holder to the obligations and liabilities conferred or imposed by law upon other holders of stock in the mutual water company or corporation in which the stock is so held.

Notwithstanding any other provisions of law or this Constitution to the contrary, the retirement board of a public pension or retirement system shall have plenary authority and fiduciary responsibility for investment of moneys and administration of the system, subject to all of the following:
(a) The retirement board of a public pension or retirement system shall have the sole and exclusive fiduciary responsibility over the assets of the public pension or retirement system. The retirement board shall also have sole and exclusive responsibility to administer the system in a manner that will assure prompt delivery of benefits and related services to the participants and their beneficiaries. The assets of a public pension or retirement system are trust funds and shall be held for the exclusive purposes of providing benefits to participants in the pension or retirement system and their beneficiaries and defraying reasonable expenses of administering the system.

(b) The members of the retirement board of a public pension or retirement system shall discharge their duties with respect to the system solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system. A retirement board’s duty to its participants and their beneficiaries shall take precedence over any other duty.

(c) The members of the retirement board of a public pension or retirement system shall discharge their duties with respect to the system with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

(d) The members of the retirement board of a public pension or retirement system shall diversify the investments of the system so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly not prudent to do so.

(e) The retirement board of a public pension or retirement system, consistent with the exclusive fiduciary responsibilities vested in it, shall have the sole and exclusive power to provide for actuarial services in order to assure the competency of the assets of the public pension or retirement system.

(f) With regard to the retirement board of a public pension or retirement system which includes in its composition elected employee members, the number, terms, and method of selection or removal of members of the retirement board which were required by law or otherwise in effect on July 1, 1991, shall not be changed, amended, or modified by the Legislature unless the change, amendment, or modification enacted by the Legislature is ratified by a majority vote of the electors of the jurisdiction in which the participants of the system are or were, prior to retirement, employed.

(g) The Legislature may by statute continue to prohibit certain investments by a retirement board where it is in the public interest to do so, and provided that the prohibition satisfies the standards of fiduciary care and loyalty required of a retirement board pursuant to this section.
(h) As used in this section, the term “retirement board” shall mean the board of administration, board of trustees, board of directors, or other governing body or board of a public employees’ pension or retirement system; provided, however, that the term “retirement board” shall not be interpreted to mean or include a governing body or board created after July 1, 1991 which does not administer pension or retirement benefits, or the elected legislative body of a jurisdiction which employs participants in a public employees’ pension or retirement system. [As amended November 3, 1992. Initiative measure.]

Sec. 18. (a) No county, city, town, township, board of education, or school district, shall 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 voters of the public entity voting at an election to be held for that purpose, except that with respect to any such public entity which is authorized to incur indebtedness for public school purposes, any proposition for the incurrence of indebtedness in the form of general obligation bonds for the purpose of repairing, reconstructing or replacing public school buildings determined, in the manner prescribed by law, to be structurally unsafe for school use, shall be adopted upon the approval of a majority of the voters of the public entity voting on the proposition at such election; 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 provide for 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 indebtedness.

(b) Notwithstanding subdivision (a), on or after the effective date of the measure adding this subdivision, in the case of any school district, community college district, or county office of education, any proposition for the incurrence of indebtedness in the form of general obligation bonds for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, shall be adopted upon the approval of 55 percent of the voters of the district or county, as appropriate, voting on the proposition at an election. This subdivision shall apply only to a proposition for the incurrence of indebtedness in the form of general obligation bonds for the purposes specified in this subdivision if the proposition meets all of the accountability requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A.

(c) When two or more propositions for incurring any indebtedness or liability are submitted at the same election, the votes cast for and against each proposition shall be counted separately, and when two-thirds or a ma-
majority or 55 percent of the voters, as the case may be, voting on any one of those propositions, vote in favor thereof, the proposition shall be deemed adopted. [As amended November 7, 2000. Initiative measure.]

[Public Improvement Proceedings by Chartered City or County]

SEC. 19. All proceedings undertaken by any chartered city, or by any chartered county or by any chartered city and county for the construction of any public improvement, or the acquisition of any property for public use, or both, where the cost thereof is to be paid in whole or in part by special assessment or other special assessment taxes upon property, whether the special assessment will be specific or a special assessment tax upon property wholly or partially according to the assessed value of such property, shall be undertaken only in accordance with the provisions of law governing: (a) limitations of costs of such proceedings or assessments for such proceedings, or both, in relation to the value of any property assessed therefor; (b) determination of a basis for the valuation of any such property; (c) payment of the cost in excess of such limitations; (d) avoidance of such limitations; (e) postponement or abandonment, or both, of such proceedings in whole or in part upon majority protest, and particularly in accordance with such provisions as contained in Sections 10, 11 and 13a of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 or any amendments, codification, reenactment or restatement thereof.

Notwithstanding any provisions for debt limitation or majority protest as in this section provided, if, after the giving of such reasonable notice by publication and posting and the holding of such public hearing as the legislative body of any such chartered county, chartered city or chartered city and county shall have prescribed, such legislative body by no less than a four-fifths vote of all members thereof, finds and determines that the public convenience and necessity require such improvements or acquisitions, such debt limitation and majority protest provisions shall not apply.

Nothing contained in this section shall require the legislative body of any such city, county, or city and county to prepare or to cause to be prepared, hear, notice for hearing or report the hearing of any report as to any such proposed construction or acquisition or both. [New section adopted November 5, 1974.]

SEC. 19.5. [Repealed November 6, 1962.]

SEC. 20. [Repealed November 6, 1962.]

SEC. 21. [Repealed November 6, 1962.]
ARTICLE XVII. [Repealed June 8, 1976.]

ARTICLE XVIII. [Repealed November 3, 1970. See Article XVIII, below.]

ARTICLE XVIII*

AMENDING AND REVISIGN THE CONSTITUTION

SECTION 1. [Repealed November 3, 1970. See Section 1, below.]

[By Legislature]

SEC. 1. The Legislature by rollcall vote entered in the journal, two-thirds of the membership of each house concurring, may propose an amendment or revision of the Constitution and in the same manner may amend or withdraw its proposal. Each amendment shall be so prepared and submitted that it can be voted on separately. [New section adopted November 3, 1970.]

SEC. 2. [Repealed November 3, 1970. See Section 2, below.]

[Constitutional Convention]

SEC. 2. The Legislature by rollcall vote entered in the journal, two-thirds of the membership of each house concurring, may submit at a general election the question whether to call a convention to revise the Constitution. If the majority vote yes on that question, within 6 months the Legislature shall provide for the convention. Delegates to a constitutional convention shall be voters elected from districts as nearly equal in population as may be practicable. [New section adopted November 3, 1970.]

[Initiatives]

SEC. 3. The electors may amend the Constitution by initiative. [New section adopted November 3, 1970.]

[Effective Date—Conflict]

SEC. 4. A proposed amendment or revision shall be submitted to the electors and if approved by a majority of votes thereon takes effect the day after the election unless the measure provides otherwise. If provisions of 2 or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail. [New section adopted November 3, 1970.]

ARTICLE XIX*

MOTOR VEHICLE REVENUES

SECTION 1. [Repealed June 4, 1974. See Section 1, below.]

[Use of Fuel Taxes]

SECTION 1. Revenues from taxes imposed by the State on motor vehicle fuels for use in motor vehicles upon public streets and highways, over and above the costs of collection and any refunds authorized by law, shall be used for the following purposes:

(a) The research, planning, construction, improvement, maintenance, and operation of public streets and highways (and their related public facilities for nonmotorized traffic), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, and the administrative costs necessarily incurred in the foregoing purposes.

(b) The research, planning, construction, and improvement of exclusive public mass transit guideways (and their related fixed facilities), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, the administrative costs necessarily incurred in the foregoing purposes, and the maintenance of the structures and the immediate right-of-way for the public mass transit guideways, but excluding the maintenance and operating costs for mass transit power systems and mass transit passenger facilities, vehicles, equipment, and services. [New section adopted June 4, 1974.]

SEC. 2. [Repealed June 4, 1974. See Section 2, below.]

[Use of Motor Vehicle Fees and Taxes]

SEC. 2. Revenues from fees and taxes imposed by the State upon vehicles or their use or operation, over and above the costs of collection and any refunds authorized by law, shall be used for the following purposes:

(a) The state administration and enforcement of laws regulating the use, operation, or registration of vehicles used upon the public streets and highways of this State, including the enforcement of traffic and vehicle laws by state agencies and the mitigation of the environmental effects of motor vehicle operation due to air and sound emissions.

(b) The purposes specified in Section 1 of this article. [New section adopted June 4, 1974.]

SEC. 3. [Repealed June 4, 1974. See Section 3, below.]

[Appropriations by the Legislature—Regulation of Expenditures, Etc.]

SEC. 3. The Legislature shall provide for the allocation of the revenues to be used for the purposes specified in Section 1 of this article in a

* Former Article XXVI, as renumbered June 8, 1976.
manner which ensures the continuance of existing statutory allocation formulas for cities, counties, and areas of the State, until it determines that another basis for an equitable, geographical, and jurisdictional distribution exists; provided that, until such determination is made, any use of such revenues for purposes specified in subdivision (b) of Section 1 of this article by or in a city, county, or area of the State shall be included within the existing statutory allocations to, or for expenditure in, that city, county, or area. Any future statutory revisions shall provide for the allocation of these revenues, together with other similar revenues, in a manner which gives equal consideration to the transportation needs of all areas of the State and all segments of the population consistent with the orderly achievement of the adopted local, regional, and statewide goals for ground transportation in local general plans, regional transportation plans, and the California Transportation Plan. [New section adopted June 4, 1974.]

SEC. 4. [Repealed June 4, 1974. See Section 4, below.]

[Authorization and Approval for Expenditures]

SEC. 4. Revenues allocated pursuant to Section 3 may not be expended for the purposes specified in subdivision (b) of Section 1, except for research and planning, until such use is approved by a majority of the votes cast on the proposition authorizing such use of such revenues in an election held throughout the county or counties, or a specified area of a county or counties, within which the revenues are to be expended. The Legislature may authorize the revenues approved for allocation or expenditure under this section to be pledged or used for the payment of principal and interest on voter-approved bonds issued for the purposes specified in subdivision (b) of Section 1. [New section adopted June 4, 1974.]

[Expenditures for Payment of Bonds]

SEC. 5. The Legislature may authorize up to 25 percent of the revenues available for expenditure by any city or county, or by the State, for the purposes specified in subdivision (a) of Section 1 of this article to be pledged or used for the payment of principal and interest on voter-approved bonds issued for such purposes. [New section adopted June 4, 1974.]

SEC. 6. [Repealed November 3, 1998. See Section 6, below.]

[Loans to State General Fund]

SEC. 6. The tax revenues designated under this article may be loaned to the General Fund only if one of the following conditions is imposed:

(a) That any amount loaned is to be repaid in full to the fund from which it was borrowed during the same fiscal year in which the loan was
made, except that repayment may be delayed until a date not more than 30
days after the date of enactment of the budget bill for the subsequent fiscal
year.

(b) That any amount loaned is to be repaid in full to the fund from
which it was borrowed within three fiscal years from the date on which the
loan was made and one of the following has occurred:

(1) The Governor has proclaimed a state of emergency and declares
that the emergency will result in a significant negative fiscal impact to the
General Fund.

(2) The aggregate amount of General Fund revenues for the current fis-
cal year, as projected by the Governor in a report to the Legislature in May
of the current fiscal year, is less than the aggregate amount of General
Fund revenues for the previous fiscal year, adjusted for the change in the
cost of living and the change in population, as specified in the budget sub-
mitted by the Governor pursuant to Section 12 of Article IV in the current
fiscal year.

c) Nothing in this section prohibits the Legislature from authorizing,
by statute, loans to local transportation agencies, cities, counties, or cities
and counties, from funds that are subject to this article, for the purposes
authorized under this article. Any loan authorized as described by this sub-
division shall be repaid, with interest at the rate paid on money in the
Pooled Money Investment Account, or any successor to that account, dur-
ing the period of time that the money is loaned, to the fund from which it
was borrowed, not later than four years after the date on which the loan
was made. [New section adopted November 3, 1998.]

[Scope of Article]

Sec. 7. This article shall not affect or apply to fees or taxes imposed
pursuant to the Sales and Use Tax Law or the Vehicle License Fee Law,
and all amendments and additions now or hereafter made to such statutes.
[New section adopted June 4, 1974.]

[Use of Excess Lands for Parks and Recreation]

Sec. 8. Notwithstanding Sections 1 and 2 of this article, any real
property acquired by the expenditure of the designated tax revenues by an
entity other than the State for the purposes authorized in those sections,
but no longer required for such purposes, may be used for local public park
and recreational purposes. [New section adopted June 8, 1976.]

[Transfer of Surplus State Property Located in Coastal Zone]

Sec. 9. Notwithstanding any other provision of this Constitution, the
Legislature, by statute, with respect to surplus state property acquired by
the expenditure of tax revenues designated in Sections 1 and 2 and located
in the coastal zone, may authorize the transfer of such property, for a con-
consideration at least equal to the acquisition cost paid by the state to acquire
the property, to the Department of Parks and Recreation for state park pur-
poses, or to the Department of Fish and Game for the protection and pres-
ervation of fish and wildlife habitat, or to the Wildlife Conservation Board
for purposes of the Wildlife Conservation Law of 1947, or to the State
Coastal Conservancy for the preservation of agricultural lands.

As used in this section, “coastal zone” means “coastal zone” as defined
by Section 30103 of the Public Resources Code as such zone is described

ARTICLE XIX A *

LOANS FROM THE PUBLIC TRANSPORTATION ACCOUNT OR
LOCAL TRANSPORTATION FUNDS

[Loans to State General Fund]

SECTION 1. The funds in the Public Transportation Account in the
State Transportation Fund, or any successor to that account, may be loaned
to the General Fund only if one of the following conditions is imposed:

(a) That any amount loaned is to be repaid in full to the account during
the same fiscal year in which the loan was made, except that repayment
may be delayed until a date not more than 30 days after the date of en-
actment of the budget bill for the subsequent fiscal year.

(b) That any amount loaned is to be repaid in full to the account within
three fiscal years from the date on which the loan was made and one of the
following has occurred:

   (1) The Governor has proclaimed a state of emergency and declares
   that the emergency will result in a significant negative fiscal impact to the
   General Fund.

   (2) The aggregate amount of General Fund revenues for the current fis-
   cal year, as projected by the Governor in a report to the Legislature in May
   of the current fiscal year, is less than the aggregate amount of General
   Fund revenues for the previous fiscal year, as specified in the budget sub-
   mitted by the Governor pursuant to Section 12 of Article IV in the current
   fiscal year. [New section adopted November 3, 1998.]

[“Local Transportation Fund’’]

SEC. 2. (a) As used in this section, a “local transportation fund” is a
fund created under Section 29530 of the Government Code, or any suc-
cessor to that statute.

(b) All local transportation funds are hereby designated trust funds.

(c) A local transportation fund that has been created pursuant to law
may not be abolished.

(d) Money in a local transportation fund shall be allocated only for the purposes authorized under Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code and Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code, as those provisions existed on October 1, 1997. Neither the county nor the Legislature may authorize the expenditure of money in a local transportation fund for purposes other than those specified in this subdivision. [New section adopted November 3, 1998.]

ARTICLE XIX B *

MOTOR VEHICLE FUEL SALES TAX REVENUES AND TRANSPORTATION IMPROVEMENT FUNDING

[Transfer and Allocation of Funds]

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). [New section adopted November 5, 2002.]

ARTICLE XX
MISCELLANEOUS SUBJECTS

Sacramento County Consolidation With City or Cities

SEC. 1. Notwithstanding the provisions of Section 6 of Article XI, the County of Sacramento and all or any of the cities within the County of Sacramento may be consolidated as a charter city and county as provided by statute, with the approval of a majority of the electors of the county voting on the question of such consolidation and upon such other vote as the Legislature may prescribe in such statute. The charter City and County of Sacramento shall be a charter city and a charter county. Its charter city powers supersede conflicting charter county powers. [New section adopted June 4, 1974.]
SEC. 1.5. The Legislature shall protect, by law, from forced sale a certain portion of the homestead and other property of all heads of families. [New section adopted June 8, 1976.]

[Leland Stanford Junior University—Henry E. Huntington Library and Art Gallery]

SEC. 2. Except for tax exemptions provided in Article XIII, the rights, powers, privileges, and confirmations conferred by Sections 10† and 15† of Article IX in effect on January 1, 1973, relating to Stanford University and the Huntington Library and Art Gallery, are continued in effect. [Former Section 6, as renumbered June 8, 1976.]

[Oath of Office]

SEC. 3. Members of the Legislature, and all public officers and employees, executive, legislative, and judicial, except such inferior officers and employees as may be by law exempted, shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation:

“I, ______________, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

“And I do further swear (or affirm) that I do not advocate, nor am I a member of any party or organization, political or otherwise, that now advocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means; that within the five years immediately preceding the taking of this oath (or affirmation) I have not been a member of any party or organization, political or otherwise, that advocated the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means except as follows:

____________________________________
(If no affiliations, write in the words “No Exceptions”)
and that during such time as I hold the office of ______________
(name of office)

I will not advocate nor become a member of any party or organization, political or otherwise, that advocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means.”

† Sections 10 and 15 of Article IX repealed November 5, 1974.
And no other oath, declaration, or test, shall be required as a qualifica-
tion for any public office or employment.

“Public officer and employee” includes every officer and employee of
the State, including the University of California, every county, city, city
and county, district, and authority, including any department, division, bu-
reau, board, commission, agency, or instrumentality of any of the forego-
ing. [As amended November 4, 1952.]

Sec. 3.5. [Repealed November 3, 1970.]

[Franchises]

Sec. 4. The Legislature shall not pass any laws permitting the leasing
or alienation of any franchise, so as to relieve the franchise or property
held thereunder from the liabilities of the lessor or grantor, lessee, or
grantee, contracted or incurred in the operation, use, or enjoyment of such
franchise, or any of its privileges. [Former Section 7, as renumbered June
8, 1976.]

Sec. 5. [Repealed June 8, 1976. See Section 5, below.]

[Laws Concerning Corporations]

Sec. 5. All laws now in force in this State concerning corporations
and all laws that may be hereafter passed pursuant to this section may be
altered from time to time or repealed. [Former Section 24, as renumbered
June 8, 1976.]

Sec. 6. [RenumbeRed Section 2 June 8, 1976. See Section 6, below.]

[Reduction in Legislator’s Term of Office—Retirement Benefits, Etc.]

Sec. 6. Any legislator whose term of office is reduced by operation of
the amendment to subdivision (a) of Section 2 of Article IV adopted by
the people in 1972 shall, notwithstanding any other provision of this Consti-
tution, be entitled to retirement benefits and compensation as if the term of
office had not been so reduced. [Former Section 25, as renumbered June
8, 1976.]

[Constitutional Officers—Number of Terms]

Sec. 7. The limitations on the number of terms prescribed by Section
2 of Article IV, Sections 2 and 11 of Article V, Section 2 of Article IX, and
Section 17 of Article XIII apply only to terms to which persons are elected
or appointed on or after November 6, 1990, except that an incumbent
Senator whose office is not on the ballot for the general election on that
date may serve only one additional term. Those limitations shall not apply
to any unexpired term to which a person is elected or appointed if the re-
mainder of the term is less than half of the full term. [New section adopted
November 6, 1990. Initiative measure.]
SEC. 8. [Renumbered Section 21 of Article I and amended November 5, 1974.]

SEC. 9. [Repealed November 3, 1970.]

SEC. 10. [Repealed June 8, 1976.]

SEC. 11. [Repealed June 8, 1976.]

SEC. 12. [Repealed November 3, 1970.]

SEC. 13. [Repealed November 3, 1970.]

SEC. 14. [Repealed November 3, 1970.]

SEC. 15. [Repealed June 8, 1976.]

SEC. 16. [Repealed November 7, 1972.]

SEC. 17. [Repealed June 8, 1976.]

SEC. 17 1⁄2. [Repealed June 8, 1976.]

SEC. 18. [Renumbered Section 8 of Article I and amended November 5, 1974.]

SEC. 19. [Repealed June 8, 1976.]

SEC. 20. [Repealed June 8, 1976.]

SEC. 21. [Repealed June 8, 1976.]

[Liquor Control]

SEC. 22. The State of California, subject to the internal revenue laws of the United States, shall have the exclusive right and power to license and regulate the manufacture, sale, purchase, possession and transportation of alcoholic beverages within the State, and subject to the laws of the United States regulating commerce between foreign nations and among the states shall have the exclusive right and power to regulate the importation into and exportation from the State, of alcoholic beverages. In the exercise of these rights and powers, the Legislature shall not constitute the State or any agency thereof a manufacturer or seller of alcoholic beverages.

[Licensed Premises—Types of Licenses]

All alcoholic beverages may be bought, sold, served, consumed and otherwise disposed of in premises which shall be licensed as provided by the Legislature. In providing for the licensing of premises, the Legislature may provide for the issuance of, among other licenses, licenses for the following types of premises where the alcoholic beverages specified in the licenses may be sold and served for consumption upon the premises:

(a) For bona fide public eating places, as defined by the Legislature.

(b) For public premises in which food shall not be sold or served as in a bona fide public eating place, but upon which premises the Legislature may permit the sale or service of food products incidental to the sale and
service of alcoholic beverages. No person under the age of 21 years shall be permitted to enter and remain in any such premises without lawful business therein.

(c) For public premises for the sale and service of beers alone.

(d) Under such conditions as the Legislature may impose, for railroad dining or club cars, passenger ships, common carriers by air, and bona fide clubs after such clubs have been lawfully operated for not less than one year.

[Service or Sale to Minors]

The sale, furnishing, giving, or causing to be sold, furnished, or giving away of any alcoholic beverage to any person under the age of 21 years is hereby prohibited, and no person shall sell, furnish, give, or cause to be sold, furnished, or given away any alcoholic beverage to any person under the age of 21 years, and no person under the age of 21 years shall purchase any alcoholic beverage.

[Director of Alcoholic Beverage Control]

The Director of Alcoholic Beverage Control shall be the head of the Department of Alcoholic Beverage Control, shall be appointed by the Governor subject to confirmation by a majority vote of all of the members elected to the Senate, and shall serve at the pleasure of the Governor. The director may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove the director from office for dereliction of duty or corruption or incompetency. The director may appoint three persons who shall be exempt from civil service, in addition to the person he is authorized to appoint by Section 4 of Article XXIV.

[Department of Alcoholic Beverage Control—Powers—Duties]

The Department of Alcoholic Beverage Control shall have the exclusive power, except as herein provided and in accordance with laws enacted by the Legislature, to license the manufacture, importation and sale of alcoholic beverages in this State, and to collect license fees or occupation taxes on account thereof. The department shall have the power, in its discretion, to deny, suspend or revoke any specific alcoholic beverages license if it shall determine for good cause that the granting or continuance of such license would be contrary to public welfare or morals, or that a person seeking or holding a license has violated any law prohibiting conduct involving moral turpitude. It shall be unlawful for any person other than a licensee of said department to manufacture, import or sell alcoholic beverages in this State.
The Alcoholic Beverage Control Appeals Board shall consist of three members appointed by the Governor, subject to confirmation by a majority vote of all of the members elected to the Senate. Each member, at the time of his initial appointment, shall be a resident of a different county from the one in which either of the other members resides. The members of the board may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove any member from office for dereliction of duty or corruption or incompetency.

When any person aggrieved thereby appeals from a decision of the department ordering any penalty assessment, issuing, denying, transferring, suspending or revoking any license for the manufacture, importation, or sale of alcoholic beverages, the board shall review the decision subject to such limitations as may be imposed by the Legislature. In such cases, the board shall not receive evidence in addition to that considered by the department. Review by the board of a decision of the department shall be limited to the questions whether the department has proceeded without or in excess of its jurisdiction, whether the department has proceeded in the manner required by law, whether the decision is supported by the findings, and whether the findings are supported by substantial evidence in the light of the whole record. In appeals where the board finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the department it may enter an order remanding the matter to the department for reconsideration in the light of such evidence. In all other appeals the board shall enter an order either affirming or reversing the decision of the department. When the order reverses the decision of the department, the board may direct the reconsideration of the matter in the light of its order and may direct the department to take such further action as is specially enjoined upon it by law, but the order shall not limit or control in any way the discretion vested by law in the department. Orders of the board shall be subject to judicial review upon petition of the director or any party aggrieved by such order.

A concurrent resolution for the removal of either the director or any member of the board may be introduced in the Legislature only if five Members of the Senate, or 10 Members of the Assembly, join as authors.
Licenses—Regulation—Fees

Until the Legislature shall otherwise provide, the privilege of keeping, buying, selling, serving, and otherwise disposing of alcoholic beverages in bona fide hotels, restaurants, cafes, cafeterias, railroad dining or club cars, passenger ships, and other public eating places, and in bona fide clubs after such clubs have been lawfully operated for not less than one year, and the privilege of keeping, buying, selling, serving, and otherwise disposing of beers on any premises open to the general public shall be licensed and regulated under the applicable provisions of the Alcoholic Beverage Control Act, insofar as the same are not inconsistent with the provisions hereof, and excepting that the license fee to be charged bona fide hotels, restaurants, cafes, cafeterias, railroad dining or club cars, passenger ships, and other public eating places, and any bona fide clubs after such clubs have been lawfully operated for not less than one year, for the privilege of keeping, buying, selling, or otherwise disposing of alcoholic beverages, shall be the amounts prescribed as of the operative date hereof, subject to the power of the Legislature to change such fees.

The State Board of Equalization shall assess and collect such excise taxes as are or may be imposed by the Legislature on account of the manufacture, importation and sale of alcoholic beverages in this State.

The Legislature may authorize, subject to reasonable restrictions, the sale in retail stores of alcoholic beverages contained in the original packages, where such alcoholic beverages are not to be consumed on the premises where sold; and may provide for the issuance of all types of licenses necessary to carry on the activities referred to in the first paragraph of this section, including, but not limited to, licenses necessary for the manufacture, production, processing, importation, exportation, transportation, wholesaling, distribution, and sale of any and all kinds of alcoholic beverages.

The Legislature shall provide for apportioning the amounts collected for license fees or occupation taxes under the provisions hereof between the State and the cities, counties and cities and counties of the State, in such manner as the Legislature may deem proper.

All constitutional provisions and laws inconsistent with the provisions hereof are hereby repealed.

The provisions of this section shall be self-executing, but nothing herein shall prohibit the Legislature from enacting laws implementing and not inconsistent with such provisions.

This amendment shall become operative on January 1, 1957. [As amended November 6, 1956. Operative January 1, 1957.]

State Colleges—Speaker, Member of Governing Body

SEC. 23. Notwithstanding any other provision of this Constitution, the Speaker of the Assembly shall be an ex officio member, having equal
rights and duties with the nonlegislative members, of any state agency created by the Legislature in the field of public higher education which is charged with the management, administration, and control of the State College System of California. [New section adopted November 3, 1970.]

SEC. 24. [Renumbered Section 5 June 8, 1976.]

SEC. 25. [Renumbered Section 6 June 8, 1976.]

ARTICLE XXI*

REAPPORTIONMENT OF SENATE, ASSEMBLY, CONGRESSIONAL, AND BOARD OF EQUALIZATION DISTRICTS

[Reapportionment Following National Census]

SECTION 1. In the year following the year in which the national census is taken under the direction of Congress at the beginning of each decade, the Legislature shall adjust the boundary lines of the Senatorial, Assembly, Congressional, and Board of Equalization districts in conformance with the following standards:

[Standards]

(a) Each member of the Senate, Assembly, Congress, and the Board of Equalization shall be elected from a single-member district.

(b) The population of all districts of a particular type shall be reasonably equal.

(c) Every district shall be contiguous.

(d) Districts of each type shall be numbered consecutively commencing at the northern boundary of the State and ending at the southern boundary.

(e) The geographical integrity of any city, county, or city and county, or of any geographical region shall be respected to the extent possible without violating the requirements of any other subdivision of this section. [New section adopted June 3, 1980.]

ARTICLE XXII**

ARCHITECTURAL AND ENGINEERING SERVICES

[Authority of Government to Contract for Architectural and Engineering Services]

SECTION 1. The State of California and all other governmental entities, including, but not limited to, cities, counties, cities and counties, school districts and other special districts, local and regional agencies and joint power agencies, shall be allowed to contract with qualified private entities

* New Article XXI adopted June 3, 1980.

for architectural and engineering services for all public works of improvement. The choice and authority to contract shall extend to all phases of project development including permitting and environmental studies, rights-of-way services, design phase services and construction phase services. The choice and authority shall exist without regard to funding sources whether federal, state, regional, local or private, whether or not the project is programmed by a state, regional or local governmental entity, and whether or not the completed project is a part of any state owned or state operated system or facility. [New section adopted November 7, 2000. Initiative measure.]

[Construction of Article VII]

SECTION 2. Nothing contained in Article VII of this Constitution shall be construed to limit, restrict or prohibit the State or any other governmental entities, including, but not limited to, cities, counties, cities and counties, school districts and other special districts, local with regional agencies and joint power agencies, from contracting and private entities for the performance of architectural and engineering services. [New section adopted November 7, 2000. Initiative measure.]

ARTICLE XXIII. [Repealed June 8, 1976.]

ARTICLE XXIV. [Repealed June 8, 1976.]

ARTICLE XXV. [Repealed November 8, 1949. Initiative measure.]

ARTICLE XXVI. [Renumbered Article XIX June 8, 1976.]

ARTICLE XXVII. [Repealed November 3, 1970.]

ARTICLE XXVIII. [Repealed November 5, 1974.]

ARTICLE XXXIV*  
PUBLIC HOUSING PROJECT LAW  

[Approval of Low Rent Housing Projects by Electors]

SECTION 1. No low rent housing project shall hereafter be developed, constructed, or acquired in any manner by any state public body until, a majority of the qualified electors of the city, town or county, as the case may be, in which it is proposed to develop, construct, or acquire the same,

* New article adopted November 7, 1950. Initiative measure.
voting upon such issue, approve such project by voting in favor thereof at an election to be held for that purpose, or at any general or special election.

[“Low Rent Housing Project”]
For the purposes of this article the term “low rent housing project” shall mean any development composed of urban or rural dwellings, apartments or other living accommodations for persons of low income, financed in whole or in part by the Federal Government or a state public body or to which the Federal Government or a state public body extends assistance by supplying all or part of the labor, by guaranteeing the payment of liens, or otherwise. For the purposes of this Article only there shall be excluded from the term “low rent housing project” any such project where there shall be in existence on the effective date hereof, a contract for financial assistance between any state public body and the Federal Government in respect to such project.

[“Persons of Low Income”]
For the purposes of this Article only “persons of low income” shall mean persons or families who lack the amount of income which is necessary (as determined by the state public body developing, constructing, or acquiring the housing project) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

[“State Public Body”]
For the purposes of this Article the term “state public body” shall mean this State, or any city, city and county, county, district, authority, agency, or any other subdivision or public body of this State.

[“Federal Government”]
For the purposes of this Article the term “Federal Government” shall mean the United States of America, or any agency or instrumentality, corporate or otherwise, of the United States of America. [New section adopted November 7, 1950. Initiative measure.]

[Self-executing Provisions]
Section 2. The provisions of this Article shall be self-executing but legislation not in conflict herewith may be enacted to facilitate its operation. [New section adopted November 7, 1950. Initiative measure.]

[Constitutionality of Article]
Section 3. If any portion, section or clause of this Article, or the application thereof to any person or circumstance, shall for any reason be declared unconstitutional or held invalid, the remainder of this Article, or the
application of such portion, section or clause to other persons or circumstances, shall not be affected thereby. [New section adopted November 7, 1950. Initiative measure.]

[Scope of Article]

Section 4. The provisions of this Article shall supersede all provisions of this Constitution and laws enacted thereunder in conflict therewith. [New section adopted November 7, 1950. Initiative measure.]
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Primary Election, March 5, 2002, and General Election, November 5, 2002
MEASURES SUBMITTED TO
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MEASURES ADOPTED

CONSTITUTIONAL AMENDMENTS SUBMITTED BY LEGISLATURE

Number on ballot


43. Right to Have Vote Counted. (Statutes 2001, Resolution Chapter 114, ACA 9)

INITIATIVE AMENDMENT SUBMITTED BY LEGISLATURE

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Number on ballot

51. Transportation. Distribution of Existing Motor Vehicles Sales and Use Tax.
52. Election Day Voter Registration. Voter Fraud Penalties.
SECRETARY OF STATE

I, BILL JONES, Secretary of State of the State of California, hereby certify, based on records on file in my office:

That pursuant to Government Code § 9755(d), the following are the results of all elections upon any initiative or referendum measures submitted to the electors of the State within calendar year 2002.

The following laws were **adopted** by vote of the electors at the March 5, 2002 primary election:


- Right to Have Vote Counted. Legislative Constitutional Amendment. (Assembly Constitutional Amendment 9, Resolution Chapter 114, Statutes of 2001)

- Chiropractors. Unprofessional Conduct. Legislative Initiative Amendment. (Senate Bill 1988, Chapter 867, Statutes of 2000)

The following proposed laws were **defeated** by vote of the electors at the March 5, 2002 primary election:

- Legislative Term Limits. Local Voter Petitions. Initiative Constitutional Amendment.
The following laws were **adopted** by vote of the electors at the November 5, 2002 general election:

- Court Consolidation. Legislative Constitutional Amendment.  (Assembly Constitutional Amendment 15, Resolution Chapter 88, Statutes of 2002)

The following laws were **defeated** by vote of the electors at the November 5, 2002 general election:


IN WITNESS WHEREOF, I hereunto set my hand and affix the Great Seal of California, at Sacramento, this 13th day of December, 2002.

BILL JONES
Secretary of State
PROPOSITIONS SUBMITTED TO VOTE OF ELECTORS

Primary Election, March 5, 2002

MEASURES ADOPTED

CONSTITUTIONAL AMENDMENTS SUBMITTED BY LEGISLATURE

Number on ballot


[Approved by electors March 5, 2002.]

PROPOSED ADDITION OF ARTICLE XIX B

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).

PROPOSED AMENDMENT OF ARTICLE II

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.
INITIATIVE AMENDMENT SUBMITTED BY LEGISLATURE

Number on ballot

44. Chiropractors. Unprofessional Conduct. (Statutes 2000, Chapter 867, SB 1988)

[Approved by electors March 5, 2002.]

PROPOSED LAW

SEC. 5. Section 1003 is added to the Business and Professions Code, to read:

1003. (a) Except as otherwise allowed by law, the employment of runners, cappers, steerers, or other persons to procure patients constitutes unprofessional conduct.

(b) A licensee of the State Board of Chiropractic Examiners shall have his or her license to practice revoked for a period of 10 years upon a second conviction for violating any of the following provisions or upon being convicted of more than one count of violating any of the following provisions in a single case: Section 650 of this code, Section 750 or 1871.4 of the Insurance Code, or Section 549 or 550 of the Penal Code. After the expiration of this 10-year period, an application for license reinstatement may be made pursuant to subdivision (c) of Section 10 of the Chiropractic Act.

SEC. 6. Section 1004 is added to the Business and Professions Code, to read:

1004. The State Board of Chiropractic Examiners shall investigate any licensee against whom an information or indictment has been filed that alleges a violation of Section 550 of the Penal Code or Section 1871.4 of the Insurance Code, if the district attorney does not otherwise object to initiating an investigation.

BOND ACTS SUBMITTED BY LEGISLATURE

Number on ballot


[Approved by electors March 5, 2002.]

PROPOSED LAW

SECTION 1. Chapter 1.696 (commencing with Section 5096.600) is added to Division 5 of the Public Resources Code, to read:

CHAPTER 1.696. THE CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002


5096.600. This chapter shall be known, and may be cited, as the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002.
The Legislature finds and declares all of the following:
(a) To maintain a high quality of life for California’s growing population requires a continuing investment in parks, recreation facilities, and in the protection of the state’s natural and historical resources.
(b) Clean air, clean water, clean beaches, and healthy natural ecosystems that can support both human communities and the state’s native fish and wildlife are all part of the legacy of California. Each generation has an obligation to be good stewards of these resources in order to pass them on to their children.
(c) California’s historical legacy also requires active protection, restoration, and interpretation to preserve and pass on an understanding and appreciation of the diverse cultural influences and extraordinary human achievements that have contributed to the unique development of California.

As used in this chapter, the following terms have the following meanings:
(a) “Acquisition” means obtaining the fee title or a lesser interest in real property, including specifically, a conservation easement or development rights.
(b) “Department” means the Department of Parks and Recreation.
(c) “Development” includes, but is not limited to, improvement, rehabilitation, restoration, enhancement, preservation, protection, and interpretation.
(d) “Director” means the Director of the Department of Parks and Recreation.
(e) “District” means any regional park district, regional park and open-space district, or regional open-space district formed pursuant to Article 3 (commencing with Section 5500) of Chapter 3, any recreation and park district formed pursuant to Chapter 4 (commencing with Section 5780), or an authority formed pursuant to Division 26 (commencing with Section 35100). With respect to any community or unincorporated region that is not included within a district, and in which no city or county provides parks or recreational areas or facilities, “district” also means any other district that is authorized by statute to operate and manage parks or recreational areas or facilities, employs a full-time park and recreation director, offers year-round park and recreation services on lands and facilities owned by the district, and allocates a substantial portion of its annual operating budget to parks or recreation areas or facilities.
(f) “Fund” means the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund created pursuant to Section 5096.610.
(g) “Historical resource” includes, but is not limited to, any building, structure, site, area, place, artifact, or collection of artifacts that is historically or archaeologically significant in the cultural annals of California.
(h) “Local conservation corps” means a program operated by a public agency or nonprofit organization that is certified pursuant to Section 14406.
(i) “Nonprofit organization” means any nonprofit public benefit corporation formed pursuant to the Nonprofit Corporation Law (commencing with Section 5000 of the Corporations Code), qualified to do business in California, and qualified under Section 501(c)(3) of the Internal Revenue Code.
(j) “Preservation” means identification, evaluation, recordation, documentation, interpretation, protection, rehabilitation, restoration, stabilization, development, and reconstruction, or any combination of those activities.
(k) “Secretary” means the Secretary of the Resources Agency.

Lands or interests in land acquired with funds allocated pursuant to this chapter shall be acquired from a willing seller.
Article 2. The California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002

5096.610. The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund, which is hereby created. Except as provided in subdivision (a) of Section 5096.650, the money in the fund shall be available for appropriation by the Legislature, in the manner set forth in this chapter, for acquisition and development projects, in accordance with the following schedule:

(a) The sum of two hundred twenty-five million dollars ($225,000,000) for acquisition and development of the state park system.

(b) The sum of eight hundred thirty-two million five hundred thousand dollars ($832,500,000) for local assistance programs for the acquisition and development of neighborhood, community, and regional parks and recreation areas.

(c) The sum of one billion two hundred seventy-five million dollars ($1,275,000,000) for land, air, and water conservation programs, including acquisition for those purposes.

(d) The sum of two hundred sixty-seven million five hundred thousand dollars ($267,500,000) for the acquisition, restoration, preservation, and interpretation of California’s historical and cultural resources.

Article 3. State Parks

5096.615. The two hundred twenty-five million dollars ($225,000,000) allocated pursuant to subdivision (a) of Section 5096.610 shall be available for appropriation by the Legislature to the department for the acquisition and development of the state park system. It is the intent of the Legislature that first priority for funding shall be for development projects to complete and expand visitor facilities and for restoration projects. Not more than 50 percent of the funds provided by this section may be used for acquisition.

Article 4. Local Assistance Programs

5096.620. The eight hundred thirty-two million five hundred thousand dollars ($832,500,000) allocated pursuant to subdivision (b) of Section 5096.610 shall be available for appropriation by the Legislature for local assistance programs, in accordance with the following schedule:

(a) The sum of three hundred fifty million dollars ($350,000,000) to the department for grants, in accordance with Section 5096.621, and on the basis of population, for the acquisition and development of neighborhood, community, and regional parks and recreation lands and facilities in urban and rural areas.

(b) The sum of two hundred million dollars ($200,000,000) to the department for grants, in accordance with the Roberti-Z’berg-Harris Urban Open-Space and Recreation Program Act (Chapter 3.2 (commencing with Section 5620)).

(c) The sum of twenty-two million five hundred thousand dollars ($22,500,000) on a per capita basis in accordance with subdivision (g) of Section 5096.621.

(d) The sum of two hundred sixty million dollars ($260,000,000) to the department for grants for urban and special need park programs in accordance with Section 5096.625.

5096.621. (a) Sixty percent of the total funds available for grants pursuant to subdivision (a) of Section 5096.620 shall be allocated to cities and to districts...
other than a regional park district, regional park and open-space district, or regional open-space district. Each city’s and district’s allocation shall be in the same ratio as the city’s or district’s population is to the combined total of the state’s population that is included in incorporated areas and unincorporated areas within the district, except that each city or district shall be entitled to a minimum allocation of two hundred twenty thousand dollars ($220,000). In any instance in which the boundary of a city overlaps the boundary of such a district, the population in the area of overlapping jurisdiction shall be attributed to each jurisdiction in proportion to the extent to which each operate and manage parks and recreational areas and facilities for that population. In any instance in which the boundary of a city overlaps the boundary of such a district, and in the area of overlap the city does not operate and manage parks and recreational areas and facilities, all grant funds shall be allocated to the district.

(b) Each city and each district subject to subdivision (a) whose boundaries overlap shall develop a specific plan for allocating the grant funds in accordance with the formula specified in subdivision (a). If, by April 1, 2003, the plan has not been agreed to by the city and district and submitted to the department, the director shall determine the allocation of the grant funds among the affected jurisdictions.

(c) Forty percent of the total funds available for grants pursuant to subdivision (a) of Section 5096.620 shall be allocated to counties and regional park districts, regional park and open-space districts, or regional open-space districts formed pursuant to Article 3 (commencing with Section 5500) of Chapter 3.

(d) Each county’s allocation under subdivision (a) shall be in the same ratio as the county’s population, except that each county shall be entitled to a minimum allocation of one million two hundred thousand dollars ($1,200,000).

(e) In any county that embraces all or part of the territory of a regional park district, regional park and open-space district, or regional open-space district, whose board of directors is not the county board of supervisors, the amount allocated to the county shall be apportioned between that district and the county in proportion to the population of the county that is included within the territory of the district and the population of the county that is outside the territory of the district.

(f) For the purpose of making the calculations required by this section, population shall be determined by the department, in cooperation with the Department of Finance, on the basis of the most recent verifiable census data and other verifiable population data that the department may require to be furnished by the applicant city, county, or district.

(g) Of the funds appropriated in subdivision (c) of Section 5096.620, twelve million five hundred thousand dollars ($12,500,000) shall be allocated to a city with an urban population greater than three million five hundred thousand in a county of the first class, and ten million dollars ($10,000,000) shall be allocated to a county of the first class.

(h) The Legislature finds and declares that it intends all recipients of funds pursuant to subdivision (a) of Section 5096.620 to use those funds to supplement local revenues, in existence on the effective date of the act adding this chapter during the 2001–02 Regular Session, that are being used for parks or other projects eligible for funds under this chapter. To receive any allocation pursuant to subdivision (a) of Section 5096.620, the recipient may not reduce the amount of funding otherwise available to be spent on parks or other projects eligible for funds under this chapter in their jurisdiction. One-time allocations that have
been expended for parks or other projects, but which are not available on an ongoing basis, may not be considered when calculating a recipient's annual expenditures. For purposes of this subdivision, the Controller may request fiscal data from recipients for the preceding three fiscal years. Each recipient shall furnish the data to the Controller not later than 120 days after receiving the request from the Controller.

5096.624. (a) The director shall prepare and adopt criteria and procedures for evaluating applications for grants allocated pursuant to subdivisions (a) to (c), inclusive, of Section 5096.620. Individual applications for funds shall be submitted to the department for approval as to their conformity with the requirements of this chapter. The application shall be accompanied by certification that the project for which the grant is requested is consistent with the park and recreation element of the applicable city or county general plan or the district park and recreation plan, as the case may be, and will satisfy a high priority need.

(b) To utilize available grant funds as effectively as possible, overlapping or adjoining jurisdictions and applicants with similar objectives are encouraged to combine projects and submit a joint application. An applicant may allocate all or a portion of its per capita share for a regional or state project.

(c) The director shall annually forward a statement of the total amount to be appropriated in each fiscal year for projects approved for grants pursuant to this article to the Director of Finance for inclusion in the Budget Bill. A list of eligible jurisdictions and the amount of grant funds to be allocated to each shall also be made available by the department.

(d) Funds appropriated pursuant to this article shall be encumbered by the recipient within three years from the date the appropriation is effective. Regardless of the date of encumbrance of the granted funds, the recipient is expected to complete all funded projects within eight years of the effective date of the appropriation.

5096.625. The funds provided in subdivision (d) of Section 5096.620 shall be available as grants for public agencies and non-profit organizations for the acquisition and development of new parks, botanical gardens, nature centers, and other community facilities in park poor communities. The funds may be expended pursuant to Section 5004.5, and Chapter 1.55 (commencing with Section 5095), if Senate Bill 359 of the 2001–02 Regular Session of the Legislature is enacted on or before January 1, 2003, and Chapter 3.3 (commencing with Section 5640), if Assembly Bill 1481 of the 2001–02 Regular Session of the Legislature is enacted on or before January 1, 2003, or pursuant to any other applicable statutory authorization. Not less than fifty million dollars ($50,000,000) of the funds provided in subdivision (d) of Section 5096.620 shall be expended for competitive grants consistent with the requirements of subdivision (b) of Section 5096.348. Ten million dollars ($10,000,000) of the funds provided in subdivision (d) of Section 5096.620 shall be available for development of Central Park in the City of Rancho Cucamonga. Five million dollars ($5,000,000) of the funds provided in subdivision (d) of Section 5096.620 shall be available for allocation to the City of Los Angeles for park and recreation or community facilities at or adjacent to the Hansen Dam recreation area. Five million dollars ($5,000,000) of the funds provided in subdivision (d) of Section 5096.620 shall be available for allocation to the City of Los Angeles for the Sepulveda Basin recreational parkland.

5096.629. In making grants of funds allocated pursuant to subdivision (d) of Section 5096.620, priority shall be assigned to projects that include a
commitment for a matching contribution. Contributions may be in the form of money from a nonstate source; gifts of real property, equipment, and consumable supplies; volunteer services; free or reduced-cost use.

5096.633. Any grant funds appropriated pursuant to this article that have not been expended by the grant recipient prior to July 1, 2011, shall revert to the fund and be available for appropriation by the Legislature for one or more of the local assistance programs specified in Section 5096.620 that the Legislature determines to be the highest priority statewide.

Article 5. Land, Air, and Water Conservation

5096.650. The one billion two hundred seventy-five million dollars ($1,275,000,000) allocated pursuant to subdivision (c) of Section 5096.610 shall be available for the acquisition and development of land, air, and water resources in accordance with the following schedule:

(a) Notwithstanding Section 13340 of the Government Code, the sum of three hundred million dollars ($300,000,000) is continuously appropriated to the Wildlife Conservation Board for the acquisition, development, rehabilitation, restoration, and protection of habitat that promotes the recovery of threatened and endangered species, that provides corridors linking separate habitat areas to prevent habitat fragmentation, and that protects significant natural landscapes and ecosystems such as old growth redwoods and oak woodlands and other significant habitat areas; and for grants and related state administrative costs pursuant to the Wildlife Conservation Law of 1947 (Chapter 4 (commencing with Section 1300) of Division 2 of the Fish and Game Code). Funds scheduled in this subdivision may be used to prepare management plans for properties acquired in fee by the Wildlife Conservation Board.

(b) The sum of four hundred forty-five million dollars ($445,000,000) to the conservancies in accordance with the particular provisions of the statute creating each conservancy for the acquisition, development, rehabilitation, restoration, and protection of land and water resources; for grants and state administrative costs; and in accordance with the following schedule:

(1) To the State Coastal Conservancy ........................................ $ 200,000,000
(2) To the California Tahoe Conservancy ............................... $ 40,000,000
(3) To the Santa Monica Mountains Conservancy .................... $ 40,000,000
(4) To the Coachella Valley Mountains Conservancy .............. $ 20,000,000
(5) To the San Joaquin River Conservancy ............................... $ 25,000,000
(6) To the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy ........................................ $ 40,000,000
(7) To the Baldwin Hills Conservancy ..................................... $ 40,000,000
(8) To the San Francisco Bay Area Conservancy Program... ............................... $ 40,000,000

(c) The sum of three hundred seventy-five million dollars ($375,000,000) shall be available for grants to public agencies and nonprofit organizations for acquisition, development, restoration, and associated planning, permitting, and administrative costs for the protection and restoration of water resources in accordance with the following schedule:

(1) The sum of seventy-five million dollars ($75,000,000) to the secretary for the acquisition and development of river parkways and for protecting urban streams. The secretary shall make funds available in accordance with Sections 7048 and 78682.2 of the Water Code, and pursuant to any other applicable statutory authorization. Not less than five million dollars ($5,000,000) shall be available for grants for the urban streams program, pursuant to Section 7048 of the Water Code.
(2) The sum of three hundred million dollars ($300,000,000) shall be available for the purposes of clean beaches, watershed protection, and water quality projects to protect beaches, coastal waters, rivers, lakes, and streams from contaminants, pollution, and other environmental threats.

(d) The sum of fifty million dollars ($50,000,000) to the State Air Resources Board for grants to air districts pursuant to Chapter 9 (commencing with Section 44275) of Part 5 of Division 26 of the Health and Safety Code for projects that reduce air pollution that affects air quality in state and local park and recreation areas. Eligible projects shall meet the requirements of Section 16727 of the Government Code and shall be consistent with Section 43023.5 of the Health and Safety Code, if Assembly Bill 1390 of the 2001–02 Regular Session of the Legislature is enacted on or before January 1, 2003. Each district shall be eligible for grants of not less than two hundred thousand dollars ($200,000). Not more than 5 percent of the funds allocated to a district may be used to cover the costs associated with implementing the grant program.

(e) The sum of twenty million dollars ($20,000,000) to the California Conservation Corps for the acquisition, development, restoration, and rehabilitation of land and water resources, and for grants and state administrative costs in accordance with the following schedule:

1. The sum of five million dollars ($5,000,000) shall be available for resource conservation activities.

2. The sum of fifteen million dollars ($15,000,000) shall be available for grants to local conservation corps for acquisition and development of facilities to support local conservation corps programs.

(f) The sum of seventy-five million dollars ($75,000,000) shall be available for grants for the preservation of agricultural lands and grazing lands, including oak woodlands and grasslands.

(g) The sum of ten million dollars ($10,000,000) to the Department of Forestry and Fire Protection for grants for urban forestry programs pursuant to the California Urban Forestry Act of 1978 (Chapter 2 (commencing with Section 4799.06) of Part 2.5 of Division 1).

In making grants pursuant to subdivisions (a) and (b) of Section 5096.650, priority shall be given to projects that include a commitment for a matching contribution. Contributions may be in the form of money, property, or services.

Article 5. Historical and Cultural Resources Preservation

5096.652. (a) The two hundred sixty-seven million five hundred thousand dollars ($267,500,000) allocated pursuant to subdivision (d) of Section 5096.610 shall be available for appropriation by the Legislature for the acquisition, development, preservation, and interpretation of buildings, structures, sites, places, and artifacts that preserve and demonstrate culturally significant aspects of California’s history and for grants for these purposes. Eligible projects include, but are not limited to, those which preserve and demonstrate the following:

1. Culturally significant aspects of life during various periods of California history including architecture, economic activities, art, recreation, and transportation.

2. Unique identifiable ethnic and other communities that have added significant elements to California’s culture.

3. California industrial, commercial, and military history including the industries, technologies, and commercial activities that have characterized
California’s economic expansion and California’s contribution to national defense.

(4) Important paleontologic, oceanographic, and geologic sites and specimens.

(b) Thirty-five million dollars ($35,000,000) of the funds available pursuant to this section shall be allocated to a city for the development, rehabilitation, preservation, restoration, and interpretation of resources at a city park of historical and cultural significance that is over 1,000 acres and that serves an urban area with a population that is greater than 750,000 in northern California.

(c) Two million five hundred thousand dollars ($2,500,000) of the funds available pursuant to this section shall be allocated to the County of Los Angeles for the El Pueblo Cultural and Performing Arts Center.


5096.665. Bonds in the total amount of two billion six hundred million dollars ($2,600,000,000), not including the amount of any refunding bonds issued in accordance with Section 5096.677, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes set forth in Section 5096.610 and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable. Pursuant to this section, the Treasurer shall sell the bonds authorized by the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act Finance Committee created pursuant to subdivision (a) of Section 5096.667 at any different times that are necessary to service expenditures appropriated pursuant to this chapter.

5096.666. The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law apply to the bonds and to this chapter and are hereby incorporated in this chapter by this reference as though set forth in full in this chapter.

5096.667. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this chapter, the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act Finance Committee is hereby created. For purposes of this chapter, the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act Finance Committee is “the committee” as that term is used in the State General Obligation Bond Law. The committee consists of the Controller, the Director of Finance, and the Treasurer, or their designated representatives. The Treasurer shall serve as chairperson of the committee. A majority of the committee may act for the committee.

(b) For purposes of the State General Obligation Bond Law, the Secretary of the Resources Agency is designated the “board.”

5096.668. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter to carry out Section 5096.610 and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively,
and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

5096.670. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds maturing each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act that is necessary to collect that additional sum.

5096.671. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum necessary to carry out Section 5096.672, appropriated without regard to fiscal years.

5096.672. For purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds that have been authorized to be sold for the purpose of carrying out this chapter. Any amount withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund from proceeds received from the sale of bonds for the purpose of carrying out this chapter.

5096.673. Pursuant to Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code, the cost of bond issuance shall be paid out of the bond proceeds. These costs shall be shared proportionally by each program funded through this bond act.

5096.674. Actual costs incurred in connection with administering programs authorized under the categories specified in Section 5096.610 shall be paid from the funds authorized by this act.

5096.675. The secretary may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, including other authorized forms of interim financing that include, but are not limited to, commercial paper, in accordance with Section 16312 of the Government Code, for purposes of carrying out this chapter. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this chapter. The secretary shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

5096.676. All money deposited in the fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

5096.677. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state of the issuance of the bonds described in this chapter includes the approval of the issuance of any bonds to refund any bonds originally issued under this chapter or any previously issued refunding bonds.
5096.678. Notwithstanding any provision of this chapter or the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this chapter that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and the investment earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or to take any other action with respect to the investment and use of bond proceeds required or desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

5096.679. (a) The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not “proceeds of taxes” as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

(b) Funds provided pursuant to this chapter, and any appropriation or transfer of those funds, shall not be deemed to be a transfer of funds for the purposes of Chapter 9 (commencing with Section 2780) of Division 3 of the Fish and Game Code.

5096.681. Except for funds continuously appropriated by this chapter, all appropriations of funds pursuant to Section 5096.610 for purposes of the program shall be included in the Budget Bill for the 2002–03 fiscal year, and each succeeding fiscal year, for consideration by the Legislature, and shall bear the label “California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Program Fund.” The Budget Bill section shall contain separate items for each project, each class of project, or each element of the program for which an appropriation is made.

5096.683. The Secretary shall provide for an annual audit of expenditures from this chapter.

Number on ballot

[Approved by electors March 5, 2002.]

PROPOSED LAW

SECTION 1. Article 3 (commencing with Section 19230) is added to Chapter 3 of Division 19 of the Elections Code, to read:

(Shelley-Hertzberg Act)

19230. This article shall be known and may be cited as the Voting Modernization Bond Act of 2002 (Shelley-Hertzberg Act).

19231. The State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), except as otherwise provided herein, is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds
authorized to be issued by this article, and the provisions of that law are included in this article as though set out in full.

19232. As used in this article, the following words have the following meanings:

(a) “Board” means the Voting Modernization Board, established pursuant to Section 19235.

(b) “Bond” means a state general obligation bond issued pursuant to this article adopting the provisions of the State General Obligation Bond Law.

(c) “Bond act” means this article authorizing the issuance of state general obligation bonds and adopting the State General Obligation Bond Law by reference.

(d) “Committee” means the Voting Modernization Finance Committee, established pursuant to Section 19233.

(e) “Fund” means the Voting Modernization Fund, created pursuant to subdivision (b) of Section 19234.

(f) “Voting system” means any voting machine, voting device, or vote-tabulating device that does not utilize prescored punch card ballots.

19233. (a) The Voting Modernization Finance Committee is hereby established for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this article.

(b) The committee consists of the Controller, the Director of Finance, and the Treasurer, or their designated representatives, all of whom shall serve thereon without compensation, and a majority of whom shall constitute a quorum. The Treasurer shall serve as chairperson of the committee. A majority of the committee may act for the committee.

(c) For purposes of this article, the Voting Modernization Finance Committee is “the committee” as that term is used in the State General Obligation Bond Law.

19234. (a) The committee may create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of not more than two hundred million dollars ($200,000,000), exclusive of refunding bonds, in the manner provided herein for the purpose of creating a fund to assist counties in the purchase of updated voting systems.

(b) The proceeds of bonds issued and sold pursuant to this article shall be deposited in the Voting Modernization Fund, which is hereby established.

(c) A county is eligible to apply to the board for fund money if it meets all of the following requirements:

(1) The county has purchased a new voting system after January 1, 1999, and is continuing to make payments on that system on the date that this article becomes effective.

(2) The county matches fund moneys at a ratio of one dollar ($1) of county moneys for every three dollars ($3) of fund moneys.

(3) The county has not previously requested fund money for the purchase of a new voting system. Applications for expansion of an existing system or components related to a previously approved application shall be accepted.

(d) Fund moneys shall only be used to purchase systems certified by the Secretary of State, pursuant to Division 19 (commencing with Section 19001), and in no event shall fund moneys be used to purchase a voting system that utilizes prescored punch card ballots.

(e) Any voting system purchased using bond funds that does not require a voter to directly mark on the ballot must produce, at the time the voter votes his
or her ballot or at the time the polls are closed, a paper version or representation of the voted ballot or of all the ballots cast on a unit of the voting system. The paper version shall not be provided to the voter but shall be retained by elections officials for use during the 1 percent manual recount or other recount or contest.

19234.5. The Legislature may amend subdivisions (c) and (d) of Section 19234 and Section 19235 by a statute, passed in each house of the Legislature by rollcall vote entered in the respective journals, by not less than two-thirds of the membership in each house concurring, if the statute is consistent with, and furthers the purposes of, this article.

19235. The Voting Modernization Board is hereby established and designated the “board” for purposes of the State General Obligation Bond Law, and for purposes of administering the Voting Modernization Fund. The board consists of five members, three selected by the Governor, and two selected by the Secretary of State. The board shall have the authority to reject any application for fund money it deems inappropriate, excessive, or that does not comply with the intent of this article. A county whose application is rejected shall be allowed to submit an amended application.

19236. (a) All bonds authorized by this article, when duly sold and delivered as provided herein, constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereof. The bonds issued pursuant to this article shall be repaid within 10 years from the date they are issued.

(b) There shall be collected annually, in the same manner and at the same time as other state revenue is collected, a sum of money, in addition to the ordinary revenues of the state, sufficient to pay the principal of, and interest on, these bonds as provided herein. All officers required by law to perform any duty in regard to the collection of state revenues shall collect this additional sum.

(c) On the dates on which funds are remitted pursuant to Section 16676 of the Government Code for the payment of the then maturing principal of, and interest on, the bonds in each fiscal year, there shall be returned to the General Fund all of the money in the fund, not in excess of the principal of, and interest on, any bonds then due and payable. If the money so returned on the remittance dates is less than the principal and interest then due and payable, the balance remaining unpaid shall be returned to the General Fund out of the fund as soon as it shall become available, together with interest thereon from the dates of maturity until returned, at the same rate of interest as borne by the bonds, compounded semiannually. This subdivision does not grant any lien on the fund or the moneys therein to holders of any bonds issued under this article. However, this subdivision shall not apply in the case of any debt service that is payable from the proceeds of any refunding bonds. For the purposes of this subdivision, “debt service” means the principal (whether due at maturity, by redemption, or acceleration), premium, if any, or interest payable on any date to any series of bonds.

19237. Notwithstanding Section 13340 of the Government Code, there is hereby continuously appropriated from the General Fund, for purposes of this article, a sum of money that will equal both of the following:

(a) That sum annually necessary to pay the principal of, and the interest on, the bonds issued and sold as provided herein, as that principal and interest become due and payable.
(b) That sum necessary to carry out Section 19238, appropriated without regard to fiscal years.

19238. For the purposes of this article, the Director of Finance may, by executive order, authorize the withdrawal from the General Fund of a sum of money not to exceed the amount of the unsold bonds that have been authorized by the committee to be sold pursuant to this article. Any sums withdrawn shall be deposited in the fund. All moneys made available under this section to the board shall be returned by the board to the General Fund, plus the interest that the amounts would have earned in the Pooled Money Investment Account, from the sale of bonds for the purpose of carrying out this article.

19239. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for the purposes of carrying out this article. The amount of the request shall not exceed the amount of unsold bonds which the committee has, by resolution, authorized to be sold for the purpose of carrying out this article. The board shall execute whatever documents are required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this article.

19240. Upon request of the board, supported by a statement of its plans and projects approved by the Governor, the committee shall determine whether to issue any bonds authorized under this article in order to carry out the board’s plans and projects, and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out these plans and projects progressively, and it is not necessary that all of the bonds be issued or sold at any one time.

19241. (a) The committee may authorize the Treasurer to sell all or any part of the bonds authorized by this article at the time or times established by the Treasurer.

(b) Whenever the committee deems it necessary for an effective sale of the bonds, the committee may authorize the Treasurer to sell any issue of bonds at less than their par value, notwithstanding Section 16754 of the Government Code. However, the discount on the bonds shall not exceed 3 percent of the par value thereof.

19242. Out of the first money realized from the sale of bonds as provided herein, there shall be redeposited in the General Obligation Bond Expense Revolving Fund, established by Section 16724.5 of the Government Code, the amount of all expenditures made for the purposes specified in that section, and this money may be used for the same purpose and repaid in the same manner whenever additional bond sales are made.

19243. Any bonds issued and sold pursuant to this article may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 2 of Title 2 of the Government Code. The approval of the voters for the issuance of bonds under this article includes approval for the issuance of bonds issued to refund bonds originally issued or any previously issued refunding bonds.

19244. Notwithstanding any provision of the bond act, if the Treasurer sells bonds under this article for which bond counsel has issued an opinion to the effect that the interest on the bonds is excludable from gross income for purposes of federal income tax, subject to any conditions which may be designated, the Treasurer may establish separate accounts for the investment of bond proceeds
and for the earnings on those proceeds, and may use those proceeds or earnings
to pay any rebate, penalty, or other payment required by federal law or take any
other action with respect to the investment and use of bond proceeds required
or permitted under federal law necessary to maintain the tax-exempt status of
the bonds or to obtain any other advantage under federal law on behalf of the
funds of this state.

19245. The Legislature hereby finds and declares that, inasmuch as the
proceeds from the sale of bonds authorized by this article are not “proceeds
of taxes” as that term is used in Article XIII B of the California Constitution,
the disbursement of these proceeds is not subject to the limitations imposed by
Article XIII B.

MEASURES DEFEATED

INITIATIVE CONSTITUTIONAL AMENDMENT

Number on ballot

45. **Legislative Term Limits. Local Voter Petitions.**

[Submitted by the initiative and rejected by electors March 5, 2002.]

PROPOSED AMENDMENT OF ARTICLE II

SECTION 1. Preamble

Term limits have reinvigorated the political process by promoting full
participation and bringing a breath of fresh air to California government. The
people recognize that in some instances a few specially skilled and popular
lawmakers have been unable to complete important legislative programs for
their districts before they must leave office. In recognition of these special cases,
the people of California seek an opportunity by petition to extend some specific
district representatives’ terms in office by a maximum of four years.

SEC. 2. Section 21 is added to Article II of the California Constitution, to
read:

SEC. 21. **Local Legislative Option.** Local legislative option is the power
of the voters residing in an Assembly or Senate district to exercise an option to
allow their term-limited state legislator to stand for re-election for an extended
term(s) in office, not to exceed a total of four years, notwithstanding Article IV,
Section 2(a) of this Constitution.

(a) Local legislative option may be exercised only one time per lawmaker.

SEC. 3. Section 22 is added to Article II of the California Constitution, to
read:

SEC. 22. (a) Exercise of the local legislative option is initiated by
delivering to the Secretary of State a petition invoking the right of the people to
re-elect a legislator who would otherwise be ineligible for re-election by reason
of Article IV, Section 2(a). Proponents have 90 days to circulate petitions and
must submit petitions for verification at least 30 business days prior to the first
day candidates may file declarations of intention to become a candidate for
legislative office.
(b) A petition invoking local legislative option must be signed by electors of the district equal in number to 20 percent of the ballots cast for that office in the last general election for which the local legislative option is sought.

(c) Only electors registered to vote in the district in which the legislator is serving at the time the petition is filed, or following a redistricting, in the district in which the local legislative option is sought, may sign the petition.

(d) Legislators permitted to run under this section may run only in the district in which they are currently serving, or if that district is changed pursuant to redistricting, then in the successor district whose lines include the larger portion of the former district.

(e) Local voters may exercise this option to extend the time that a legislator would otherwise be permitted to serve by a period of four years.

(f) The petition must be in substantially the following form:

We the undersigned registered voters of the ___ Assembly [or Senate] district hereby invoke our right pursuant to Article II, Section 21 of the California Constitution to vote for or against [here list the legislator by name] at the next election(s) for that office, but not to exceed a total of four years. Our reasons are as follows: [here set forth reasons in no more than 200 words]

(g) Petitions shall be submitted to local election officers who shall certify the signatures to the Secretary of State in the same fashion as initiative petitions are certified. As soon as sufficient valid signatures are certified, the Secretary of State shall so advise local election officials, who shall place the name of the certified legislator on the ballot in the same fashion as if he or she were not subject to Article IV, Section 2(a).
PROPOSITIONS SUBMITTED TO VOTE OF ELECTORS

General Election, November 5, 2002

MEASURES ADOPTED

CONSTITUTIONAL AMENDMENT SUBMITTED BY LEGISLATURE

Number on ballot

48. Court Consolidation. (Statutes 2002, Resolution Chapter 88, ACA 15)

[Approved by electors November 5, 2002.]

PROPOSED AMENDMENT TO ARTICLE VI

First—That Section 1 of Article VI is amended to read:
SEC. 1. The judicial power of this State is vested in the Supreme Court, courts of appeal, and superior courts, and municipal courts, all of which are courts of record.

Second—That Section 5 of Article VI is repealed.
SEC. 5. (a) Each county shall be divided into municipal court districts as provided by statute; but a city may not be divided into more than one district. Each municipal court shall have one or more judges. Each municipal court district shall have no fewer than 40,000 residents; provided that each county shall have at least one municipal court district: The number of residents shall be determined as provided by statute.

(b) On the operative date of this subdivision; all existing justice courts shall become municipal courts; and the number, qualifications, and compensation of judges, officers, attaches, and employees shall continue until changed by the Legislature: Each judge of a part-time municipal court is deemed to have agreed to serve full time and shall be available for assignment by the Chief Justice for the balance of time necessary to comprise a full-time workload:

(c) The Legislature shall provide for the organization and prescribe the jurisdiction of municipal courts: It shall prescribe for each municipal court the number, qualifications, and compensation of judges, officers, and employees:

(d) Notwithstanding subdivision (a); any city in San Diego County may be divided into more than one municipal court district if the Legislature determines that unusual geographic conditions warrant such division:

(e) Notwithstanding subdivision (a); the municipal and superior courts shall be unified upon a majority vote of superior court judges and a majority vote of municipal court judges within the county: In those counties, there shall be only a superior court.

Third—That Section 6 of Article VI is amended to read:
SEC. 6. (a) The Judicial Council consists of the Chief Justice and one other judge of the Supreme Court, three judges of courts of appeal, five judges of superior courts, five judges of municipal courts, two nonvoting court administrators, and such any other nonvoting members as determined by the voting membership of the council, each appointed by the Chief Justice for a 3-year three-year term
pursuant to procedures established by the council; 4 four members of the State Bar appointed by its governing body for 3-year three-year terms; and one member of each house of the Legislature appointed as provided by the house.

Vacancies in the memberships on the Judicial Council otherwise designated for municipal court judges shall be filled by judges of the superior court in the case of appointments made when fewer than 10 counties have municipal courts:

(b) Council membership terminates if a member ceases to hold the position that qualified the member for appointment. A vacancy shall be filled by the appointing power for the remainder of the term.

(c) The council may appoint an Administrative Director of the Courts, who serves at its pleasure and performs functions delegated by the council or the Chief Justice, other than adopting rules of court administration, practice and procedure.

(d) To improve the administration of justice the council shall survey judicial business and make recommendations to the courts, make recommendations annually to the Governor and Legislature, adopt rules for court administration, practice and procedure, and perform other functions prescribed by statute. The rules adopted shall not be inconsistent with statute.

(e) The Chief Justice shall seek to expedite judicial business and to equalize the work of judges. The Chief Justice may provide for the assignment of any judge to another court but only with the judge’s consent if the court is of lower jurisdiction. A retired judge who consents may be assigned to any court.

(f) Judges shall report to the council as the Chief Justice directs concerning the condition of judicial business in their courts. They shall cooperate with the council and hold court as assigned.

Fourth—That Section 8 of Article VI is amended to read:

SEC. 8. (a) The Commission on Judicial Performance consists of one judge of a court of appeal, one judge of a superior court, and one judge of a municipal court and two judges of superior courts, each appointed by the Supreme Court; 2 two members of the State Bar of California who have practiced law in this State for 10 years, each appointed by the Governor; and 6 six citizens who are not judges, retired judges, or members of the State Bar of California, 2 two of whom shall be appointed by the Governor, 2 two by the Senate Committee on Rules, and 2 two by the Speaker of the Assembly. Except as provided in subdivisions (b) and (c), all terms are for 4 four years. No member shall serve more than 2 two four-year terms, or for more than a total of 10 years if appointed to fill a vacancy. A vacancy in the membership on the Commission on Judicial Performance otherwise designated for a municipal court judge shall be filled by a judge of the superior court in the case of an appointment made when fewer than 10 counties have municipal courts.

(b) Commission membership terminates if a member ceases to hold the position that qualified the member for appointment. A vacancy shall be filled by the appointing power for the remainder of the term. A member whose term has expired may continue to serve until the vacancy has been filled by the appointing power. Appointing powers may appoint members who are already serving on the commission prior to March 1, 1995, to a single 2-year two-year term, but may not appoint them to an additional term thereafter.

(c) To create staggered terms among the members of the Commission on Judicial Performance, the following members shall be appointed, as follows:
(1) Two members appointed by the Supreme Court to a term commencing March 1, 1995, shall each serve a term of 2 years and may be reappointed to one full term.

(2) One attorney appointed by the Governor to a term commencing March 1, 1995, shall serve a term of 2 years and may be reappointed to one full term.

(3) One citizen member appointed by the Governor to a term commencing March 1, 1995, shall serve a term of 2 years and may be reappointed to one full term.

(4) One member appointed by the Senate Committee on Rules to a term commencing March 1, 1995, shall serve a term of 2 years and may be reappointed to one full term.

(5) One member appointed by the Speaker of the Assembly to a term commencing March 1, 1995, shall serve a term of 2 years and may be reappointed to one full term.

(6) All other members shall be appointed to full 4-year terms commencing March 1, 1995.

Fifth—That Section 10 of Article VI is amended to read:

SEC. 10. The Supreme Court, courts of appeal, superior courts, and their judges have original jurisdiction in habeas corpus proceedings. Those courts also have original jurisdiction in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition. The appellate division of the superior court has original jurisdiction in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition directed to the superior court in cases subject to its appellate jurisdiction.

Superior courts have original jurisdiction in all other causes except those given by statute to other trial courts.

The court may make such any comment on the evidence and the testimony and credibility of any witness as in its opinion is necessary for the proper determination of the cause.

Sixth—That Section 15 of Article VI is amended to read:

SEC. 15. A person is ineligible to be a judge of a court of record unless for 5 years immediately preceding selection to a municipal court or 10 years immediately preceding selection to other courts, the person has been a member of the State Bar or served as a judge of a court of record in this State. A judge eligible for municipal court service may be assigned by the Chief Justice to serve on any court.

Seventh—That Section 16 of Article VI is amended to read:

SEC. 16. (a) Judges of the Supreme Court shall be elected at large and judges of courts of appeal shall be elected in their districts at general elections at the same time and places as the Governor. Their terms are 12 years beginning the Monday after January 1 following their election, except that a judge elected to an unexpired term serves the remainder of the term. In creating a new court of appeal district or division the Legislature shall provide that the first elective terms are 4, 8, and 12 years.

(b) In counties in which there is no municipal court, judges of superior courts shall be elected in their counties at general elections except as otherwise necessary to meet the requirements of federal law. In the latter case the Legislature, by two-thirds vote of the membership of each house thereof, with the advice of judges within the affected court, may provide for their election by the system prescribed in subdivision (d), or by any other arrangement. The
Legislature may provide that an unopposed incumbent’s name not appear on the ballot.

(2) In counties in which there is one or more municipal court districts, judges of superior and municipal courts shall be elected in their counties or districts at general elections. The Legislature may provide that an unopposed incumbent’s name not appear on the ballot.

(c) Terms of judges of superior courts are 6 six years beginning the Monday after January 1 following their election. A vacancy shall be filled by election to a full term at the next general election after the second January 1 following the vacancy, but the Governor shall appoint a person to fill the vacancy temporarily until the elected judge’s term begins.

(d) (1) Within 30 days before August 16 preceding the expiration of the judge’s term, a judge of the Supreme Court or a court of appeal may file a declaration of candidacy to succeed to the office presently held by the judge. If the declaration is not filed, the Governor before September 16 shall nominate a candidate. At the next general election, only the candidate so declared or nominated may appear on the ballot, which shall present the question whether the candidate shall be elected. The candidate shall be elected upon receiving a majority of the votes on the question. A candidate not elected may not be appointed to that court but later may be nominated and elected.

(2) The Governor shall fill vacancies in those courts by appointment. An appointee holds office until the Monday after January 1 following the first general election at which the appointee had the right to become a candidate or until an elected judge qualifies. A nomination or appointment by the Governor is effective when confirmed by the Commission on Judicial Appointments.

(3) Electors of a county, by majority of those voting and in a manner the Legislature shall provide, may make this system of selection applicable to judges of superior courts.

Eighth—That Section 23 of Article VI is amended to read:

SEC. 23. (a) The purpose of the amendments to Sections 1, 4, 5, 6, 8, 10, 11, and 16, of this article, and the amendments to Section 16 of Article I, approved at the June 2, 1998, primary election is to permit the Legislature to provide for the abolition of the municipal courts and unify their operations within the superior courts. Notwithstanding Section 8 of Article IV, the implementation of, and orderly transition under, the provisions of the measure adding this section may include urgency statutes that create or abolish offices or change the salaries, terms, or duties of offices, or grant franchises or special privileges, or create vested rights or interests, where otherwise permitted under this Constitution.

(b) When the superior and municipal courts within a county are unified, the judgeships in each municipal court in that county are abolished and the previously selected municipal court judges shall become judges of the superior court in that county. The term of office of a previously selected municipal court judge is not affected by taking office as a judge of the superior court. The 10-year membership or service requirement of Section 15 does not apply to a previously selected municipal court judge. Pursuant to Section 6, the Judicial Council may prescribe appropriate education and training for judges with regard to trial court unification.

(c) Except as provided by statute to the contrary, in any county in which the superior and municipal courts become unified, the following shall occur automatically in each preexisting superior and municipal court:

(1) Previously selected officers, employees, and other personnel who serve the court become the officers and employees of the superior court.
(2) Preexisting court locations are retained as superior court locations.
(3) Preexisting court records become records of the superior court.
(4) Pending actions, trials, proceedings, and other business of the court become pending in the superior court under the procedures previously applicable to the matters in the court in which the matters were pending.
(5) Matters of a type previously within the appellate jurisdiction of the superior court remain within the jurisdiction of the appellate division of the superior court.
(6) Matters of a type previously subject to rehearing by a superior court judge remain subject to rehearing by a superior court judge, other than the judge who originally heard the matter.
(7) Penal Code procedures that necessitate superior court review of, or action based on, a ruling or order by a municipal court judge shall be performed by a superior court judge other than the judge who originally made the ruling or order.
(d) This section shall remain in effect only until January 1, 2007, and as of that date is repealed.

INITIATIVE STATUTES

Number on ballot

[Submitted by the initiative and approved by electors November 5, 2002.]

PROPOSED LAW

AFTER SCHOOL EDUCATION AND SAFETY PROGRAM ACT OF 2002

SECTION 1. This act shall be known, and may be cited, as the “After School Education and Safety Program Act of 2002.”
SEC. 2. The people find and declare all of the following:
(a) Studies by law enforcement and nonprofit organizations show that the after school hours between 3 p.m. and 6 p.m. on school days are the peak hours for children to become victims of violent crimes or to commit violent crimes themselves. The after school hours are also the peak hours for drug and alcohol use and car accidents involving children.
(b) Research shows after school programs have a major positive impact on society by making our streets safer, and reducing risk taking behavior such as alcohol, tobacco and drug use by teenagers.
(c) Studies by the University of California Los Angeles and the University of California Irvine of existing after school programs in California show the after school programs have a major positive impact on the education of our children by increasing school attendance, reducing suspensions, and improving standardized test scores.
(d) After school programs save taxpayer money by reducing crime, reducing health costs associated with drug and alcohol use, cutting grade repetition, and reducing the need for remedial education.
(e) After school programs help working families by providing their children a safe, educationally enriching place to go after school when there is no parent at home.

(f) School buildings, playgrounds, and other school facilities are a huge taxpayer investment, and they can and should be better utilized during before and after school hours, especially for after school programs for California’s children.

(g) The After School Learning and Safe Neighborhoods Partnerships Program has successfully provided incentive grants for after school and nonschoolday programs that have proven to increase academic performance and to improve behavior of children, especially children at risk.

(h) Only a small portion of elementary and middle schools in California currently operate an after school program. With approximately 50 percent of California’s children having either a single working parent, or two parents who both work, after school programs have become a necessity, not a luxury.

(i) Although new funding of after school programs is extremely important, revenues guaranteed by law for our public school system pursuant to Proposition 98 should first be fully appropriated and therefore not be used to increase the funding of these after school programs. The new funding for after school programs will therefore be funded above the legally required educational funding.

(j) And because there are essential, noneducation state programs that need continued funding, increasing funding for these after school programs should occur only after substantial growth in state revenues not guaranteed for education purposes.

SEC. 3. Therefore the people enact the After School Education and Safety Program Act to encourage schools and school districts to use school facilities and other appropriate locations to provide a safe and educationally enriching place for children in grades K through 9 to be when they are not in school and to accomplish the following specific purposes:

(a) To rename the After School Learning and Safe Neighborhoods Partnerships Program the After School Education and Safety Program (ASESP), but not to change its program operations under existing law and to continue to require a 50 percent match of local funding.

(b) To expand ASESP funding to a level sufficient to:
   (1) First, fund all existing before and after school and nonschoolday grants.
   (2) Second, make available universal after school incentive grants to every public (including charter) elementary, middle, and junior high school in California making an acceptable application.
   (3) Third, increase funding for before and after school programs beyond current appropriations when more state revenue is available.

(c) To give priority for increased state funding to schools with predominately low-income students from funds available once every eligible school has the opportunity to receive an initial universal after school grant.

(d) To add computer training, fine arts, and physical fitness programs to the educational/literacy and enrichment/recreational components of existing law.

(e) To solicit local law enforcement input in program development.

(f) To fund the expansion of state grants to schools for this program only out of growth in state revenues, instead of new taxes, and only after state revenues that are otherwise legally guaranteed to fund education programs have already been fully appropriated.
(g) To appropriate four hundred sixty-five million dollars ($465,000,000) for new program expenditures above the existing statutory appropriation of eighty-five million dollars ($85,000,000) for a total of five hundred fifty million dollars ($550,000,000), much of which will be offset from savings expected from reduced costs in crime and education.

(h) To make sure this new four hundred sixty-five million dollar ($465,000,000) appropriation is not an undue burden on other state programs, to provide a trigger to increase the eighty-five million dollar ($85,000,000) appropriation in the 2004–05 fiscal year or later when and only if state revenues have grown sufficiently over the highest of the 2000–01, 2001–02, 2002–03, or 2003–04 fiscal years to provide more than one billion five hundred million dollars ($1,500,000,000) in new appropriations not guaranteed for education purposes.

(i) To ensure each school gets the highest quality program possible, provide 1½ percent of the appropriation for the program for technical assistance and program evaluation.

SEC. 4. The heading of Article 22.5 (commencing with Section 8482) of Chapter 2 of Part 6 of the Education Code is amended to read:

Article 22.5. Before and After School Learning and Safe Neighborhoods Partnerships Program

After School Education and Safety Program

SEC. 5. Section 8482 of the Education Code is amended to read:

8482. There is hereby established the After School Education and Safety Program. All references to it by its prior name, the Before and After School Learning and Safe Neighborhoods Partnerships Program, in this article and other state law shall now identify it by its new name. The purpose of this program is to create incentives for establishing locally driven before and after school enrichment programs both during schooldays and summer, intersession, or vacation days that partner public schools and communities to provide academic and literacy support and safe, constructive alternatives for youth. The term public school includes charter schools.

SEC. 6. Section 8482.3 of the Education Code is amended to read:

8482.3. (a) The Before and After School Learning and Safe Neighborhoods Partnerships Program After School Education and Safety Program shall be established to serve pupils in kindergarten and grades 1 to 9, inclusive, at participating public elementary, middle, junior high, and charter school sites.

(b) A program may operate a before school component of a program, an after school component, or both the before and after school components of a program, on one or multiple school sites. If a program operates at multiple school sites, only one application shall be required for its establishment.

(c) Each component of a program established pursuant to this article shall consist of the following two components:

(1) An educational and literacy component whereby tutoring or homework assistance is provided in one or more of the following areas: language arts, mathematics, history and social science, computer training, or science.

(2) A component whereby educational enrichment, which may include, but need not be limited to, fine arts, recreation, physical fitness, and prevention activities, is provided.
(d) Applicants for programs established pursuant to this article may include any of the following:
   (1) A local education agency, including a charter school.
   (2) A city, county, or nonprofit organization in partnership with, and with the approval of, a local education agency or agencies.
(e) Applicants for grants pursuant to this article shall ensure that each of the following requirements is fulfilled, if applicable:
   (1) The application documents the commitments of each partner to operate a program on that schoolsite site or schoolsites sites.
   (2) The application has been approved by the school district and the principal of each participating school for each schoolsite or other site.
   (3) Each partner in the application agrees to share responsibility for the quality of the program.
   (4) The application designates the public agency or local education agency partner to act as the fiscal agent. For purposes of this section, “public agency” means only a county board of supervisors or, where the city is incorporated or has a charter, a city council.
   (5) Applicants agree to follow all fiscal reporting and auditing standards required by the State Department of Education.

SEC. 7. Section 8482.5 of the Education Code is amended to read:
8482.5. (a) Priority for funding programs established pursuant to this article, except those established pursuant to subdivision (c) of Section 8482.55, shall be given to schools where a minimum of 50 percent of the pupils in elementary schools and 50 percent of the pupils in middle and junior high schools are eligible for free or reduced-cost meals through the school lunch program of the United States Department of Agriculture.
(b) Every program established pursuant to this article shall be planned through a collaborative process that includes parents, youth, and representatives of participating public schools, governmental agencies, such as city and county parks and recreation departments, local law enforcement, community organizations, and the private sector.

SEC. 8. Section 8482.55 is added to the Education Code, to read:
8482.55. (a) To accomplish the purposes of the After School Education and Safety Program, commencing with the fiscal year beginning July 1, 2004, and for each fiscal year thereafter, all grants made pursuant to this article shall be awarded as set forth in this section.
(b) Grants made to public schools pursuant to this article for the 2003–04 fiscal year shall continue to be funded in each subsequent fiscal year at the 2003–04 fiscal year level before any other grants are funded under this article, provided such schools continue to make application for such grants and are otherwise qualified pursuant to this article. Receipt of a grant at the 2003–04 fiscal year level made pursuant to this subdivision shall not affect a school’s eligibility for additional grant funding as permitted in subdivisions (c) and (d) up to the maximum grants permitted in Sections 8483.7 and 8483.75.
(c) Every public elementary, middle, and junior high school in the state shall be eligible to receive a three year renewable incentive grant for after school programs to be operated during the regular school year, as provided in subparagraph (A) of paragraph (1) of subdivision (a) of Section 8483.7. Except as provided in this subdivision, grants for after school programs made pursuant to this subdivision shall be subject to all other sections of this article. Grants for after school programs made pursuant to this subdivision shall not exceed fifty
thousand dollars ($50,000) for each regular school year for each elementary school or seventy-five thousand dollars ($75,000) for each regular school year for each middle or junior high school. Notwithstanding subdivision (a) of Section 8482.5 and except as provided in subdivision (f), every public elementary, middle, and junior high school in the state shall have equal priority of funding for grants for after school programs made pursuant to this subdivision. Receipt of a grant for an after school program made pursuant to this subdivision shall not affect a school’s eligibility for additional grant funding as permitted in subdivision (d) up to the maximum grants permitted in Sections 8483.7 and 8483.75. Grants made pursuant to this subdivision shall be funded after grants made pursuant to subdivision (b) and before any grants made pursuant to subdivision (d). Grants made pursuant to this subdivision shall be referred to as “After School Education and Safety Universal Grants.”

(d) All funds remaining from the appropriation provided in Section 8483.5 after award of grants pursuant to subdivisions (b) and (c) shall be distributed pursuant to Sections 8483.7 and 8483.75. Grants for programs made pursuant to this subdivision shall be subject to all other sections of this article. Priority for grants for programs made pursuant to this subdivision shall be established pursuant to subdivision (a) of Section 8482.5 and Section 8483.3.

(e) No school shall receive grants in excess of the amounts provided in Sections 8483.7 and 8483.75.

(f) In the event that in any fiscal year the appropriation made pursuant to Section 8483.5 shall be insufficient to fund all eligible schools who make application for After School Education and Safety Universal Grants pursuant to subdivision (c), priority for After School Education and Safety Universal Grants shall be established pursuant to subdivision (a) of Section 8482.5 and Section 8483.3.

SEC. 9. Section 8483.25 is added to the Education Code, to read:

8483.25. The State Department of Education shall provide notice to all schools eligible for grants under this article of the availability of such grants as well as the process for making application.

SEC. 10. Section 8483.5 of the Education Code is amended to read:

8483.5. (a) It is the intent of the Legislature that a minimum of eighty-five million dollars ($85,000,000) be appropriated for the program established pursuant to this article, through the annual Budget Act. Of the funds appropriated for the program, current grant recipients have priority for receiving continued funding for the same purposes for which they previously received an award. This subdivision shall be in effect only until June 30, 2004.

(b) Commencing with the fiscal year beginning July 1, 2004, and for each fiscal year thereafter, there shall be continuously appropriated to the State Department of Education from the General Fund for the program established pursuant to this article an amount not to exceed five hundred fifty million dollars ($550,000,000) that is the greater of (1) an amount equal to the appropriation from the General Fund for the program established pursuant to this article for the immediately preceding fiscal year, or (2) an amount equal to the sum of (A) the appropriation from the General Fund for the program established pursuant to this article for fiscal year 2003–04 and (B) the amount by which the state’s non-guaranteed General Fund appropriations for the current fiscal year exceed the sum of (i) the amount of the state’s non-guaranteed General Fund appropriations for the base year plus (ii) one billion five hundred million dollars ($1,500,000,000). Nothing in this section prohibits the Legislature from
appropriating funds for the program established pursuant to this article in excess of this continuous appropriation.

(c) For purposes of this section, the term “state’s non-guaranteed General Fund appropriations” shall mean those General Fund appropriations of the state in a fiscal year other than those appropriations guaranteed to be applied by the state for the support of school districts and community college districts pursuant to Sections 8 and 8.5 of Article XVI of the California Constitution. For purposes of this section, the “base year” is the fiscal year during the period July 1, 2000 through June 30, 2004 for which the state’s non-guaranteed General Fund appropriations are the highest as compared to any other fiscal year during such period.

(d) Notwithstanding subdivision (b), in any fiscal year in which the Legislature has legal authority pursuant to paragraph (3) of subdivision (b) of Section 8 of Article XVI of the California Constitution to reduce the moneys applied by the state for the support of school districts and community college districts for the current fiscal year as compared to the moneys applied by the state for the support of school districts and community colleges during the immediately preceding fiscal year, the continuous appropriation pursuant to subdivision (b) shall be reduced for that fiscal year by the same percentage by which the moneys applied by the state for the support of school districts and community college districts in the current fiscal year is less than the moneys applied by the state for the support of school districts and community college districts during the immediately preceding fiscal year.

(e) All funds expended pursuant to this article shall be used only for the purposes expressed in this article. Except for funds expended pursuant to subdivision (b) of Section 8482.55, all funds expended pursuant to this article shall be used to supplement and not supplant existing levels of service.

SEC. 11. Section 8483.55 is added to the Education Code, to read:
8483.55. From the funds appropriated pursuant to subdivision (b) of Section 8483.5, the State Department of Education may spend 1½ percent to cover evaluation costs and to provide training and support to ensure quality program implementation, development, and sustainability and may pay its costs of awarding and monitoring grants.

SEC. 12. Section 8483.6 is added to the Education Code, to read:
8483.6. Notwithstanding subdivision (f) of Section 41202, in any fiscal year commencing with the fiscal year beginning July 1, 2004, that portion of any continuous appropriation made by Section 8483.5 for the program established pursuant to this article which is in excess of the amount appropriated for the program established pursuant to this article for the immediately preceding fiscal year shall not be appropriated until the Legislature has appropriated sums sufficient to fully fund the requirements of Sections 8 and 8.5 of Article XVI of the California Constitution for that year and shall be appropriated in addition to the sums required by, and shall not be considered towards fulfilling the funding requirements of, Sections 8 and 8.5 of Article XVI of the California Constitution for that fiscal year.

SEC. 13. Section 8484.6 of the Education Code is amended to read:
8484.6. (a) Programs established pursuant to this article may be conducted upon the grounds of a community park or recreational area if the park or recreational area is adjacent to the schoolsite facility, or other site as approved by the State Department of Education in the grant application process. Offsite programs shall align the educational and literacy component of the program with
participating pupils’ regular school programs. No program located off school grounds shall be approved unless safe transportation is provided to the pupils enrolled in the program. Any reference to schoolsite as a physical location in this article shall mean schoolsite or other site as provided by this section.

(b) An offsite program conducted pursuant to this section shall comply with all statutory and regulatory requirements that are applicable to similar programs conducted on the schoolsite.

SEC. 14. Except for Sections 8482.55, 8483.5, and 8483.6 of the Education Code, the After School Education and Safety Program Act of 2002 may be amended to further its purpose by statute, passed in each house by a majority vote of the membership concurring and signed by the Governor. Section 8482.55 of the Education Code may be amended to further the purpose of the After School Education and Safety Program Act of 2002 by statute, passed in each house by a two-thirds vote of the membership concurring and signed by the Governor. Sections 8483.5 and 8483.6 of the Education Code may not be amended by the Legislature.

SEC. 15. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

PROPOSED LAW

WATER SECURITY, CLEAN DRINKING WATER, COASTAL AND BEACH PROTECTION ACT OF 2002

SECTION 1. Division 26.5 (commencing with Section 79500) is added to the Water Code, to read:

DIVISION 26.5 WATER SECURITY, CLEAN DRINKING WATER, COASTAL AND BEACH PROTECTION ACT OF 2002

CHAPTER 1. GENERAL PROVISIONS

79500. This division shall be known and may be cited as the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002.

79501. The people of California find and declare that it is necessary and in the public interest to do all of the following:

(a) Secure and safeguard the integrity of the state’s water supply from catastrophic damage or failure from terrorist acts or other deliberate acts of destruction.

(b) Provide a safe, clean, affordable, and sufficient water supply to meet the needs of California residents, farms, and businesses.

(c) Provide adequate financing for balanced implementation of the CALFED Bay-Delta Program to:

(1) Provide good water quality for all beneficial uses.
(2) Improve and increase aquatic and terrestrial habitats and improve ecological functions in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary to support sustainable populations of diverse plant and animal species.

(3) Reduce the mismatch between Bay-Delta water supplies and current and projected beneficial uses dependent on the Bay-Delta system.

(4) Reduce the risk to land uses and associated economic activities, water supply, infrastructure, and ecosystems from catastrophic breaching of Delta levees.

(d) Establish and facilitate integrated regional water management systems and procedures to meet increasing water demands due to significant population growth that is straining local infrastructure and water supplies.

(e) Improve practices within watersheds to improve water quality, reduce pollution, capture additional storm water runoff, protect and manage groundwater better, and increase water use efficiency.

(f) Protect urban communities from drought, increase supplies of clean drinking water, reduce dependence on imported water, reduce pollution of rivers, lakes, streams, and coastal waters, and provide habitat for fish and wildlife.

(g) Invest in projects that further the ability of all Californians to live within California’s basic apportionment of 4.4 million acre-feet per year of Colorado River water pursuant to the Colorado River Water Use Plan.

(h) Protect, restore, and acquire beaches and coastal uplands, wetlands, and watershed lands along the coast and in San Francisco Bay to protect the quality of drinking water, to keep beaches and coastal waters safe from water pollution, and to provide the wildlife and plant habitat and riparian and wetlands areas needed to support functioning coastal and San Francisco Bay ecosystems for the benefit of the people of California.

79502. It is the intent of the people in enacting this division that it be administered and executed in the most expeditious manner possible, and that all state, regional and local officials implement this division to the fullest extent of their authority.

79503. It is the intent of the people that water facility projects financed pursuant to this division shall be designed and constructed so as to improve the security and safety of the state’s drinking water system.

79504. It is the intent of the people that investment of public funds pursuant to this division should result in public benefits.

79505. As used in this division, the following terms shall have the following meanings:

(a) “Acquisition” means the acquisition of a fee interest or any other interest, including easements, leases, and development rights.

(b) “Board” means the State Water Resources Control Board.

(c) “CALFED” means the consortium of state and federal agencies with management and regulatory responsibilities in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary.

(d) “CALFED Bay-Delta Program” means the undertaking by CALFED to develop and implement, by means of the final programmatic environmental impact statement/environmental impact report, the preferred programs, actions, projects, and related activities that will provide solutions to identified problem areas related to the San Francisco Bay/Sacramento-San Joaquin Delta Estuary ecosystem, including but not limited to the Bay-Delta and its tributary watersheds.

(e) “Department” means the Department of Water Resources.

(f) “Fund” means the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 created pursuant to Section 79510.
(g) “Nonprofit organization” means any nonprofit corporation formed pursuant to the Nonprofit Public Benefit Corporation Law (Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code) and qualified under Section 501(c)(3) of the United States Internal Revenue Code.

(h) “Secretary” means the Secretary of the Resources Agency.

(i) “Wetlands” means lands that may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, fens, and vernal pools.

79506. Every proposed activity to be financed pursuant to this division shall be in compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000)) of the Public Resources Code.

79507. Watershed protection activities financed pursuant to this division shall be consistent with the applicable adopted local watershed management plan and the applicable regional water quality control plan adopted by the regional water quality control board.

79508. Watershed protection activities in the San Gabriel and Los Angeles River watersheds shall be consistent with the San Gabriel and Los Angeles River Watershed and Open Space Plan as adopted by the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy and the Santa Monica Mountains Conservancy. Notwithstanding any other provision of law, this plan shall be implemented pursuant to Division 23 (commencing with Section 33000) of the Public Resources Code in the watershed of the Los Angeles River upstream of the northernmost boundary of the City of Vernon and pursuant to Division 22.8 (commencing with Section 32600) of the Public Resources Code in the San Gabriel River and in the lower Los Angeles River watershed.

79509. Except for projects financed pursuant to Chapter 6 (commencing with Section 79545) or Chapter 10 (commencing with Section 79570), to be eligible to be financed pursuant to this division, any project that will wholly or partially assist in the fulfillment of one or more of the goals of the CALFED Bay-Delta Program shall be consistent with the CALFED Programmatic Record of Decision, and shall be implemented, to the maximum extent possible, through local and regional programs.

CHAPTER 2. THE WATER SECURITY, CLEAN DRINKING WATER, COASTAL AND BEACH PROTECTION FUND OF 2002

79510. The Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 is hereby created.

79511. All money deposited in the fund shall be used only for the purposes and in the amounts set forth in this division and for no other purpose.

79512. Except as otherwise expressly provided in this division, upon a finding by the agency authorized to administer or expend money appropriated from the fund that a particular project or program for which money has been allocated or granted cannot be completed, or that the amount that was appropriated, allocated, or granted is in excess of the total amount needed, the Legislature may reappropriate the money for other high priority needs consistent with this division.

CHAPTER 3. WATER SECURITY

79520. The sum of fifty million dollars ($50,000,000) shall be available for appropriation by the Legislature from the fund for the purpose of protecting state, local, and regional drinking water systems from terrorist attack or deliberate acts of destruction or degradation. This money may be expended
or granted for monitoring and early warning systems, fencing, protective structures, contamination treatment facilities, emergency interconnections, communications systems, and other projects designed to prevent damage to water treatment, distribution, and supply facilities, to prevent disruption of drinking water deliveries, and to protect drinking water supplies from intentional contamination.

79521. The Legislature may enact such legislation as is necessary to implement this chapter.

CHAPTER 4. SAFE DRINKING WATER

79530. (a) The sum of four hundred thirty-five million dollars ($435,000,000) shall be available for appropriation by the Legislature from the fund to the State Department of Health Services for grants and loans for infrastructure improvements and related actions to meet safe drinking water standards including, but not limited to, the following types of projects:

(1) Grants to small community drinking water systems to upgrade monitoring, treatment, or distribution infrastructure.

(2) Grants to finance development and demonstration of new technologies and related facilities for water contaminant removal and treatment.

(3) Grants for community water quality monitoring facilities and equipment.

(4) Grants for drinking water source protection.

(5) Grants for treatment facilities necessary to meet disinfectant by-product safe drinking water standards.


(b) Not less than 60 percent of the money appropriated pursuant to this section shall be available for grants to Southern California water agencies to assist in meeting the state’s commitment to reduce Colorado River water use to 4.4 million acre feet per year.

79531. The Legislature may enact such legislation as is necessary to implement this chapter.

CHAPTER 5. CLEAN WATER AND WATER QUALITY

79540. (a) The sum of one hundred million dollars ($100,000,000) shall be available for appropriation by the Legislature from the fund to the board for competitive grants for the following purposes:

(1) Water pollution prevention.

(2) Water reclamation.

(3) Water quality improvement.

(4) Water quality blending and exchange projects.

(5) Drinking water source protection projects.

(6) Projects to mitigate pathogen risk from recreational uses at drinking water storage facilities.

(b) Priority shall be given to projects that assist in meeting water quality standards established by the board.

(c) The Legislature may enact such legislation as is necessary to implement this section.

79541. The sum of one hundred million dollars ($100,000,000) shall be available for appropriation by the Legislature from the fund to the secretary for the acquisition from willing sellers, restoration, protection, and development of
river parkways. The secretary shall allocate this money in accordance with Article 6 (commencing with Section 78682) of Chapter 6 of Division 24 or pursuant to any other statute that provides for the acquisition, restoration, protection, and development of river parkways. Priority shall be given to projects that are implemented pursuant to approved watershed plans and include water quality and watershed protection benefits. This money may also be used to acquire facilities necessary to provide flows to improve water quality downstream.

79542. The sum of forty million dollars ($40,000,000) shall be available for appropriation by the Legislature from the fund to the California Tahoe Conservancy for acquisition from willing sellers, restoration, and protection of land and water resources to improve water quality in Lake Tahoe.

79543. The sum of one hundred million dollars ($100,000,000) shall be available for appropriation by the Legislature from the fund to the board for the purpose of financing projects that restore and protect the water quality and environment of coastal waters, estuaries, bays and near-shore waters, and groundwater. All expenditures, grants, and loans made pursuant to this section shall be consistent with the requirements of Article 5 (commencing with Section 79148) of Chapter 7 of Division 26. Not less than twenty million dollars ($20,000,000) shall be expended to implement priority actions specified in the Santa Monica Bay Restoration Plan. Money made available pursuant to this section shall supplement, not supplant, money appropriated or available pursuant to that Article 5 (commencing with Section 79148), and no money appropriated pursuant to this section shall be used for a project for which an appropriation was made pursuant to that Article 5 (commencing with Section 79148).

79544. The sum of thirty million dollars ($30,000,000) shall be available for appropriation by the Legislature from the fund to the secretary for the purpose of grants to local public agencies, local water districts, and nonprofit organizations for acquisition from willing sellers of land and water resources to protect water quality in lakes, reservoirs, rivers, streams and wetlands in the Sierra Nevada-Cascade Mountain Region as defined in Section 5096.347 of the Public Resources Code.

Chapter 6. Contaminant and Salt Removal Technologies

79545. The sum of one hundred million dollars ($100,000,000) shall be available for appropriation by the Legislature from the fund to the department for grants for the following projects:

(a) Desalination of ocean or brackish waters. Not less than fifty million dollars ($50,000,000) of the money appropriated by this chapter shall be available for desalination projects. To be eligible to receive a grant, at least 50 percent of the total cost of the project shall be met by matching funds or donated services from non-state sources.

(b) Pilot and demonstration projects for treatment or removal of the following contaminants:

(1) Petroleum products, such as MTBE and BTEX.
(2) N-Nitrosodimethylamine (NDMA).
(3) Perchlorate.
(4) Radionuclides, such as radon, uranium, and radium.
(5) Pesticides and herbicides.
(6) Heavy metals, such as arsenic, mercury, and chromium.
(7) Pharmaceuticals and endocrine disrupters.
Drinking water disinfecting projects using ultraviolet technology and ozone treatment.

The Legislature may enact such legislation as is necessary to implement this chapter.

CHAPTER 7. CALFED BAY-DELTA PROGRAM

The sum of eight hundred twenty-five million dollars ($825,000,000) shall be available for appropriation by the Legislature from the fund for the balanced implementation of the CALFED Bay-Delta Program. Expenditures and grants pursuant to this chapter shall be limited to the following:

(a) Fifty million dollars ($50,000,000) for surface water storage planning and feasibility studies.

(b) Seventy-five million dollars ($75,000,000) for the water conveyance facilities described in subparagraph (B) of paragraph (2) of subdivision (d) of Section 79190.

(c) Seventy million dollars ($70,000,000) for Delta levee restoration. Money expended pursuant to this subdivision shall be subject to Section 79050.

(d) One hundred eighty million dollars ($180,000,000) for water supply reliability projects that can be implemented expeditiously and thereby provide near-term benefits, including, but not limited to, projects that facilitate groundwater management and storage, water transfers, and acquisition of water for the CALFED environmental water account. In acquiring water, preference shall be given to long-term water purchase contracts and water rights. Money allocated pursuant to this subdivision shall be subject to Article 4 (commencing with Section 79205.2) of Chapter 9 of Division 26.

(e) One hundred eighty million dollars ($180,000,000) for ecosystem restoration program implementation of which not less than twenty million dollars ($20,000,000) shall be allocated for projects that assist farmers in integrating agricultural activities with ecosystem restoration.

(f) Ninety million dollars ($90,000,000) for watershed program implementation.

(g) One hundred eighty million dollars ($180,000,000) for urban and agricultural water conservation, recycling, and other water use efficiency projects.

All appropriations pursuant to this chapter shall include money for independent scientific review, monitoring, and assessment of the results or effectiveness of the project or program expenditure.

All projects financed pursuant to this chapter shall be consistent with the CALFED Programmatic Record of Decision including its provisions regarding finance and balanced implementation.

Consistent with the CALFED Programmatic Record of Decision, priority shall be given to projects that achieve multiple benefits across CALFED program elements. Not more than 5 percent of the money available pursuant to this chapter may be used for administrative costs.

All real property acquired with money appropriated or granted pursuant to subdivision (e) or (f) of Section 79550 shall be acquired from willing sellers.

CHAPTER 8. INTEGRATED REGIONAL WATER MANAGEMENT

The sum of five hundred million dollars ($500,000,000) shall be available for appropriation by the Legislature from the fund for competitive grants for projects set forth in this section to protect communities from drought,
protect and improve water quality, and improve local water security by reducing dependence on imported water. No project financed pursuant to this section shall include an on-stream surface water storage facility or an off-stream surface water storage facility other than percolation ponds for groundwater recharge in urban areas. No river or stream channel modification project whose construction or operation causes any negative environmental impacts may be financed pursuant to this chapter unless those impacts are fully mitigated.

79561. Money appropriated in Section 79560 shall be available for grants for water management projects that include one or more of the following elements:

(a) Programs for water supply reliability, water conservation, and water use efficiency.
(b) Storm water capture, storage, treatment, and management.
(c) Removal of invasive non-native plants, the creation and enhancement of wetlands, and the acquisition, protection, and restoration of open space and watershed lands.
(d) Non-point source pollution reduction, management, and monitoring.
(e) Groundwater recharge and management projects.
(f) Contaminant and salt removal through reclamation, desalting, and other treatment technologies.
(g) Water banking, exchange, reclamation, and improvement of water quality.
(h) Planning and implementation of multipurpose flood control programs that protect property; and improve water quality, storm water capture and percolation; and protect or improve wildlife habitat.
(i) Watershed management planning and implementation.
(j) Demonstration projects to develop new drinking water treatment and distribution methods.

79562. An amount, not to exceed 10 percent of the money available for appropriation in Section 79560, may be appropriated by the Legislature for facilities, equipment, and other expenses associated with the establishment of comprehensive statewide groundwater monitoring pursuant to Part 2.76 (commencing with Section 10780) of Division 6.

79563. At least 50 percent of the amount available for appropriation in Section 79560 shall be appropriated to the board. The board shall establish procedures for selecting among eligible projects specified in Section 79561 that use the procedures developed by the board for stakeholder-based accelerated selection and contracting pursuant to Section 79104.32.

79564. To be eligible for financing pursuant to Section 79563, a project shall meet both of the following criteria:

(a) The project is consistent with an adopted integrated water management plan designed to improve regional water supply reliability, water recycling, water conservation, water quality improvement, storm water capture and management, flood management, recreation and access, wetlands enhancement and creation, and environmental and habitat protection and improvement.
(b) The project includes matching funds or donated services from non-state sources.

79565. Notwithstanding Section 13340 of the Government Code, the sum of one hundred forty million dollars ($140,000,000) is hereby continuously appropriated from the fund to the Wildlife Conservation Board, without regard to fiscal years, for expenditure by the board and for grants, for the acquisition
from willing sellers of land and water resources, including the acquisition of
conservation easements, to protect regional water quality, protect and enhance
fish and wildlife habitat, and to assist local public agencies in improving regional
water supply reliability.

**Chapter 9. Colorado River**

79567. The sum of twenty million dollars ($20,000,000) shall be available
for appropriation by the Legislature from the fund to the department for grants
for canal lining and related projects necessary to reduce Colorado River water
use pursuant to the California Colorado River Water Use Plan adopted by the
Colorado River Board of California.

79568. (a) The sum of fifty million dollars ($50,000,000) shall be available
for appropriation by the Legislature from the fund to the Wildlife Conservation
Board for the acquisition, protection, and restoration of land and water
resources necessary to meet state obligations for regulatory requirements
related to California's allocation of water supplies from the Colorado River. No
money allocated pursuant to this section may be used to supplant or pay for the
regulatory mitigation obligations of private parties under state or federal law.
(b) All real property acquired pursuant to this section shall be acquired from
willing sellers.

**Chapter 10. Coastal Watershed and Wetland Protection**

79570. The sum of two hundred million dollars ($200,000,000) shall be
available for appropriation by the Legislature from the fund for expenditures
and grants for the purpose of protecting coastal watersheds, including, but not
limited to, acquisition, protection, and restoration of land and water resources
and associated planning, permitting, and administrative costs, in accordance
with the following schedule:

(a) The sum of one hundred twenty million dollars ($120,000,000) to the State
Coastal Conservancy for coastal watershed protection pursuant to Division 21
(commencing with Section 31000) of the Public Resources Code.
(b) The sum of twenty million dollars ($20,000,000) to the State Coastal
Conservancy for expenditure for the San Francisco Bay Conservancy Program
for coastal watershed protection pursuant to Chapter 4.5 (commencing with
Section 31160) of Division 21 of the Public Resources Code.
(c) The sum of forty million dollars ($40,000,000) to the Santa Monica
Mountains Conservancy. Twenty million dollars ($20,000,000) of this sum shall
be expended for protection of the Los Angeles River watershed upstream of
the northernmost boundary of the City of Vernon, and twenty million dollars
($20,000,000) shall be expended for protection of the Santa Monica Bay and
Ventura County coastal watersheds, pursuant to Division 23 (commencing with
Section 33000) of the Public Resources Code.
(d) The sum of twenty million dollars ($20,000,000) to the San Gabriel and
Lower Los Angeles Rivers and Mountains Conservancy for protection of the
San Gabriel and lower Los Angeles River watersheds pursuant to Division 22.8
(commencing with Section 32600) of the Public Resources Code.

79571. Ten percent of the money allocated in each of the categories in
Section 79570 shall be used for grants for the acquisition and development of
facilities to promote public access to and participation in the conservation of
land, water, and wildlife resources. Eligible projects include, but are not limited
to, the following:
(a) Training and research facilities for watershed protection and water conservation activities conducted by nonprofit organizations. Priority shall be given to projects operated by nonprofit organizations in collaboration with the University of California and public water agencies.

(b) Nature centers that are in or adjacent to watersheds and wetlands identified for protection pursuant to this chapter, that provide wildlife viewing, outdoor experiences, and conservation education programs to the public and to students. Priority shall be given to projects that are operated by or in cooperation with nonprofit organizations and are designed to serve children from urban areas that lack access to natural areas and outdoor education programs.

79572. (a) Notwithstanding Section 13340 of the Government Code, the sum of seven hundred fifty million dollars ($750,000,000) is hereby continuously appropriated from the fund to the Wildlife Conservation Board, without regard to fiscal years, for the acquisition, protection, and restoration of coastal wetlands, upland areas adjacent to coastal wetlands, and coastal watershed lands. Money appropriated pursuant to this section shall be for the acquisition, protection, and restoration of lands in or adjacent to urban areas. Eligible projects shall be limited to the following:

(1) Acquisition, protection, and restoration of coastal wetlands identified in the Southern California Coastal Wetlands Inventory as of January 1, 2001, published by the State Coastal Conservancy, located within the coastal zone, and other wetlands connected and proximate to such coastal wetlands, and upland areas adjacent and proximate to such coastal wetlands, or coastal wetlands identified for acquisition, protection, and restoration in the San Francisco Baylands Ecosystem Habitat Goals Report, and upland areas adjacent to the identified wetlands.

(2) Acquisition, protection, and restoration of coastal watershed and adjacent lands located in Los Angeles, Ventura, and Santa Barbara Counties. Any project financed pursuant to this paragraph within the Santa Monica Mountains Zone, as defined in Section 33105 of the Public Resources Code, shall be by grant from the Wildlife Conservation Board to the Santa Monica Mountains Conservancy. Any project financed pursuant to this paragraph within the Baldwin Hills area, as defined in Section 32553 of the Public Resources Code, shall be by grant from the Wildlife Conservation Board to the Baldwin Hills Conservancy.

(b) Not less than three hundred million dollars ($300,000,000) of the amount appropriated in this section shall be expended or granted for projects within Los Angeles and Ventura Counties. Of the remaining funds available pursuant to this section the Wildlife Conservation Board shall give priority to the acquisition of not less than 100 acres consisting of upland mesa areas, including wetlands therein, adjacent to the state ecological reserve in the Bolsa Chica wetlands in Orange County.

(c) Not more than two hundred million dollars ($200,000,000) of the amount appropriated in this section may be expended or granted for projects in the San Francisco Bay area, as described in Section 31162 of the Public Resources Code. Any project within the San Francisco Bay area may be by grant from the Wildlife Conservation Board to the State Coastal Conservancy.

79573. (a) The purchase price for each acquisition made pursuant to Section 79572 shall not exceed the fair market value of the property as defined in Section 1263.320 of the Code of Civil Procedure. Fair market value shall be determined by an appraisal that is prepared by a licensed real estate appraiser
and approved by the Wildlife Conservation Board and the Department of General Services.

(b) All real property acquired pursuant to this chapter shall be acquired from willing sellers.

CHAPTER 11. FISCAL PROVISIONS

79580. Bonds in the total amount of three billion four hundred forty million dollars ($3,440,000,000), not including the amount of any refunding bonds issued in accordance with Section 79588, or so much thereof as is necessary, may be issued and sold to be used for carrying out the purposes set forth in this division and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bond proceeds shall be deposited in the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 created by Section 79510. The bonds shall, when sold, be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of and interest on the bonds as they become due and payable.

79581. The bonds authorized by this division shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all provisions of that law shall apply to the bonds and to this division and are hereby incorporated in this division by this reference as though fully set forth in this division.

79582. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this division, the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 Finance Committee is hereby created. For purposes of this division, the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 Finance Committee is “the committee” as that term is used by the State General Obligation Bond Law. The committee shall consist of the Controller, the Director of Finance, and the Treasurer, or their designated representatives. The Treasurer shall serve as chairperson of the committee. A majority of the committee may act for the committee.

(b) For purposes of this chapter and the State General Obligation Bond Law, the secretary is designated as “the board.”

79583. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this division in order to carry out the actions specified in this division and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

79584. There shall be collected annually in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds maturing each year, and it is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do so and perform each and every act that is necessary to collect that additional sum.

79585. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund, for purposes of this division, an amount that will equal the total of the following:
(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this division, as the principal and interest become due and payable.

(b) The sum which is necessary to carry out the provisions of Section 79586, appropriated without regard to fiscal years.

79586. For the purposes of carrying out this division, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds that have been authorized to be sold for the purpose of carrying out this division. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, plus the interest that the amounts would have earned in the Pooled Money Investment Account, from money received from the sale of bonds that would otherwise be deposited in that fund.

79587. All money derived from premium and accrued interest on bonds sold shall be reserved and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

79588. Any bonds issued or sold pursuant to this division may be refunded by the issuance of refunding bonds in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code. Approval by the electors of the state for the issuance of the bonds shall include approval of the issuance of any bonds issued to refund any bonds originally issued or any previously issued refunding bonds.

79589. The people of California hereby find and declare that inasmuch as the proceeds from the sale of bonds authorized by this division are not “proceeds of taxes” as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitation imposed by that article.

SEC. 2. If any provision of this act or the application thereof is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

BOND ACTS SUBMITTED BY LEGISLATURE

Number on ballot

46. Housing and Emergency Shelter Trust Fund Act of 2002. (Statutes 2002, Chapter 26, SB 1227)

[Approved by electors November 5, 2002.]

PROPOSED LAW

SEC. 8. Part 11 (commencing with Section 53500) is added to Division 31 of the Health and Safety Code, to read:

PART 11. HOUSING AND EMERGENCY SHELTER TRUST FUND ACT OF 2002

CHAPTER 1. GENERAL PROVISIONS

53500. This part shall be known and may be cited as the Housing and Emergency Shelter Trust Fund Act of 2002.
53501. As used in this part, the following terms have the following meanings:

(a) “Committee” means the Housing Finance Committee created pursuant to Section 53524.

(b) “Fund” means the Housing and Emergency Shelter Trust Fund created pursuant to Section 53520.

CHAPTER 2. HOUSING AND EMERGENCY SHELTER TRUST FUND

53520. The proceeds of bonds issued and sold pursuant to this part shall be deposited in the Housing and Emergency Shelter Trust Fund, which is hereby created. Money in the fund shall be allocated and utilized in accordance with Chapter 4 (commencing with Section 53533).

CHAPTER 3. FISCAL PROVISIONS

53521. Bonds in the total amount of two billion one hundred million dollars ($2,100,000,000) exclusive of refunding bonds, or so much thereof as is determined necessary and feasible by the committee in order to effectuate this part or to conduct an effective sale, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this part and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds shall, when sold, be and constitute a valid legally and binding obligation of the state, and the full faith and credit of the state is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

53522. Any bonds issued and sold pursuant to this part may be refunded by the issuance of refunding bonds in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code. Approval by the electors of the state for the issuance of bonds described in this chapter shall include the approval of the issuance of any bonds issued to refund any bonds originally issued or any previously issued refunding bonds.

53523. (a) The bonds authorized by this part shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code) and all of the other provisions of that law apply to the bonds and to this part and are hereby incorporated in this part as though set forth in full in this part.

(b) Pursuant to the State General Obligation Bond Law, the cost of bond issuance shall be paid out of the bond proceeds. These costs shall be shared proportionally by each program funded through this chapter.

53524. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this part, the Housing Finance Committee is hereby created. For purposes of this part, the Housing Finance Committee is “the committee” as that term is used in the State General Obligation Bond Law. The committee consists of the Controller, the Treasurer, the Director of Finance, the Secretary of the Business, Transportation and Housing Agency, the Director of Housing and Community Development, and the Executive Director of the California Housing Finance Agency, or their designated representatives. The Treasurer shall serve as the chairperson of the committee. A majority of the committee may act for the committee.
(b) For purposes of the State General Obligation Bond Law, the department is designated the “board” for programs administered by the department, and the agency is the “board” for programs administered by the agency.

53525. Upon request of the board stating that funds are needed for the purposes of this chapter, the committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this part in order to carry out the actions specified in Chapter 4 (commencing with Section 53533) and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

53526. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year, and it is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act that is necessary to collect that additional sum.

53527. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund, for the purposes of this part, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this part, as the principal and interest become due and payable.

(b) The sum necessary to carry out the provisions of Section 53528, appropriated without regard to fiscal years.

53528. For the purposes of carrying out this part, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds that have been authorized by the committee to be sold for the purpose of carrying out this part. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund from money received from the sale of bonds for the purpose of carrying out this part.

53529. Notwithstanding any other provision of this part, or of the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this part that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

53530. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for the purposes of carrying out this part. The amount of the request shall not exceed the amount of unsold bonds that the committee has by resolution authorized to be sold for the purpose of carrying out this part. The board shall execute any documents that are required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this part.
53531. All money deposited in the fund that is derived from premiums and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

53532. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this part are not “proceeds of taxes” as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

Chapter 4. Allocation of Housing Bond Revenues

53533. (a) Money deposited in the fund from the sale of bonds pursuant to this part shall be allocated for expenditure in accordance with the following schedule:

1) Nine hundred ten million dollars ($910,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2, except for the following:

A) Fifty million dollars ($50,000,000) shall be transferred to the Preservation Opportunity Fund and, notwithstanding Section 13340 of the Government Code, is continuously appropriated without regard to fiscal years for the preservation of at-risk housing pursuant to enabling legislation.

B) Twenty million dollars ($20,000,000) shall be used for nonresidential space for supportive services, including, but not limited to, job training, health services, and child care within, or immediately proximate to, projects to be funded under the Multifamily Housing Program. This funding shall be in addition to any applicable per-unit or project loan limits and may be in the form of a grant. Service providers shall ensure that services are available to project residents on a priority basis over the general public.

C) Twenty-five million dollars ($25,000,000) shall be used for matching grants to local housing trust funds pursuant to enabling legislation.

D) Fifteen million dollars ($15,000,000) shall be used for student housing through the Multifamily Housing Program, subject to the following provisions:

i) The department shall give first priority for projects on land owned by a University of California or California State University campus. Second priority shall be given to projects located within one mile of a University of California or California State University campus that is suffering from a severe shortage of housing and limited availability of developable land as determined by the department. Those determinations shall be set forth in the Notice of Funding Availability and shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code.

ii) All funds shall be matched on a one-to-one basis from private sources or by the University of California or California State University. For the purposes of this subparagraph, “University of California” includes the Hastings College of the Law.

iii) Occupancy for the units shall be restricted to students enrolled on a full-time basis in the University of California or California State University.

iv) Income eligibility pursuant to the Multifamily Housing Program shall be established by verification of the combined income of the student and his or her family.

v) Any funds not used for this purpose within 24 months of the date that the funds are made available shall be awarded pursuant to subdivision (a) for the
Downtown Rebound Program as set forth in paragraph (1) of subdivision (c) of Section 50898.2.

(E) Any funds not encumbered for the purposes set forth in this paragraph, except subparagraph (D), within 30 months of availability shall revert to the Housing Rehabilitation Loan Fund created by Section 50661 for general use in the Multifamily Housing Program.

(F) If the enabling legislation for any program specified in this paragraph fails to be enacted into law in the 2001–02 Regular Session of the Legislature, the specified allocation for that program shall be void and the funds shall revert for general use in the Multifamily Housing Program.

(2) One hundred ninety-five million dollars ($195,000,000) shall be transferred to the Emergency Housing and Assistance Fund to be expended for the Emergency Housing and Assistance Program authorized by Chapter 11.5 (commencing with Section 50800) of Part 2.

(3) One hundred ninety-five million dollars ($195,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2, to be used for supportive housing projects for individuals and households moving from emergency shelters or transitional housing or those at risk of homelessness. The criteria for selecting projects should give priority to supportive housing for people with disabilities who would otherwise be at high risk of homelessness where the applications represent collaboration with programs that meet the needs of the person’s disabilities. The department may provide for higher per-unit loan limits as reasonably necessary to provide and maintain rents affordable to those individuals and households. For purposes of this paragraph, “supportive housing” means housing with no limit on length of stay, that is occupied by the target population, as defined in subdivision (d) of Section 53260, and that is linked to onsite or offsite services that assist the tenant to retain the housing, improve his or her health status, maximize his or her ability to live, and, when possible, work in the community.

(4) Two hundred million dollars ($200,000,000) shall be transferred to the Joe Serna, Jr. Farmworker Housing Grant Fund to be expended for farmworker housing programs authorized by Chapter 3.2 (commencing with Section 50517.5) of Part 2, except for the following:

(A) Twenty-five million dollars ($25,000,000) shall be used for projects that serve migratory agricultural workers as defined in subdivision (i) of Section 7602 of Title 25 of the California Code of Regulations.

(B) Twenty million dollars ($20,000,000) shall be used for developments that also provide health services to the residents. Recipients of these funds shall be required to provide ongoing monitoring of funded developments to ensure compliance with the requirements of the Joe Serna, Jr. Farmworker Housing Grant Program. Projects receiving funds through this allocation shall be ineligible for funding through the Joe Serna, Jr. Farmworker Housing Grant Program.

(C) Any funds not encumbered for the purposes set forth in this paragraph within 30 months of availability shall revert for general use in the Joe Serna, Jr. Farmworker Housing Grant Program.

(5) Two hundred five million dollars ($205,000,000) shall be transferred to the Self-Help Housing Fund. Notwithstanding Section 13340 of the Government Code and Section 50697.1, these funds are hereby continuously appropriated without regard to fiscal years to the department to be expended for the purposes
of the CalHome Program authorized by Chapter 6 (commencing with Section 50650) of Part 2, except for the following:

(A) Seventy-five million dollars ($75,000,000) shall be transferred to the Building Equity and Growth in Neighborhoods Fund to be used for the Building Equity and Growth in Neighborhoods (BEGIN) Program pursuant to enabling legislation.

(B) Five million dollars ($5,000,000) shall be used to provide grants to cities, counties, cities and counties, and nonprofit organizations to provide grants for lower income tenants with disabilities for the purpose of making exterior modifications to rental housing in order to make that housing accessible to persons with disabilities. For the purposes of this subparagraph, “exterior modifications” includes modifications that are made to entryways or to common areas of the structure or property. The program provided for under this subparagraph shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code.

(C) Ten million dollars ($10,000,000) shall be expended for construction management under the California Self-Help Housing Program pursuant to subdivision (b) of Section 50696.

(D) Any funds not encumbered for the purposes set forth in this paragraph within 30 months of availability shall revert for general use in the CalHome Program.

(E) If the enabling legislation for any program specified in this paragraph fails to be enacted into law in the 2001–02 Regular Session of the Legislature, the specified allocation for that program shall be void and the funds shall revert for general use in the CalHome Program.

(6) Five million dollars ($5,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for capital expenditures in support of local code enforcement and compliance programs. This allocation shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code. If the moneys allocated pursuant to this paragraph are not expended within three years after being transferred, the department may, in its discretion, transfer the moneys to the Housing Rehabilitation Loan Fund to be expended for the Multifamily Housing Program.

(7) Two hundred ninety million dollars ($290,000,000) shall be transferred to the Self-Help Housing Fund. Notwithstanding Section 50697.1, these funds are hereby continuously appropriated to the agency to be expended for the purposes of the California Homebuyer’s Downpayment Assistance Program authorized by Chapter 11 (commencing with Section 51500) of Part 3, except for the following:

(A) Fifty million dollars ($50,000,000) shall be transferred to the School Facilities Fee Assistance Fund as provided by subdivision (a) of Section 51453 to be used for the Homebuyer Down Payment Assistance Program of 2002 established by Section 51451.5.

(B) Eighty-five million dollars ($85,000,000) shall be transferred to the California Housing Loan Insurance Fund to be used for purposes of Part 4 (commencing with Section 51600).

(C) Twelve million five hundred thousand dollars ($12,500,000) shall be reserved for downpayment assistance to low-income first-time homebuyers who, as documented to the agency by a nonprofit organization certified and funded to provide homeownership counseling by a federally funded national nonprofit
corporation, is purchasing a residence in a community revitalization area targeted by the nonprofit organization and who has received homeownership counseling from the nonprofit organization.

(D) Twenty-five million dollars ($25,000,000) shall be used for down payment assistance pursuant to Section 51505. After 18 months of availability, if the agency determines that the funds set aside pursuant to this section will not be utilized for purposes of Section 51505, these funds shall be available for the general use of the agency for the purposes of the California Homebuyer’s Down Payment Assistance Program, but may also continue to be available for the purposes of Section 51505.

(E) Funds not utilized for the purposes set forth in subparagraphs (B) and (C) within 30 months shall revert for general use in the California Homebuyer’s Down Payment Assistance Program.

(8) One hundred million dollars ($100,000,000) shall be transferred to the Jobs Housing Improvement Account to be expended as capital grants to local governments for increasing housing pursuant to enabling legislation. If the enabling legislation fails to become law in the 2001–02 Regular Session of the Legislature, the specified allocation for this program shall be void and the funds shall revert for general use in the Multifamily Housing Program as specified in paragraph (1) of subdivision (a).

(b) No portion of the money allocated pursuant to this section may be expended for project operating costs, except that this section does not preclude expenditures for operating costs from reserves required to be maintained by or on behalf of the project sponsor.

(c) The Legislature may, from time to time, amend the provisions of law related to programs to which funds are, or have been, allocated pursuant to this section for the purpose of improving the efficiency and effectiveness of the program, or for the purpose of furthering the goals of the program.

(d) The Bureau of State Audits shall conduct periodic audits to ensure that bond proceeds are awarded in a timely fashion and in a manner consistent with the requirements of this part, and that awardees of bond proceeds are using funds in compliance with applicable provisions of this part.

Number on ballot


[Approved by electors November 5, 2002.]

PROPOSED LAW

SEC. 30. Part 68.1 (commencing with Section 100600) is added to the Education Code, to read:

PART 68.1. KINDERGARTEN–UNIVERSITY PUBLIC EDUCATION FACILITIES BOND ACT OF 2002

CHAPTER 1. GENERAL

100600. This part shall be known and may be cited as the Kindergarten–University Public Education Facilities Bond Act of 2002.
100601. The incorporation of, or reference to, any provision of California statutory law in this part includes all acts amendatory thereof and supplementary thereto.

100603. Bonds in the total amount of thirteen billion fifty million dollars ($13,050,000,000), not including the amount of any refunding bonds issued in accordance with Sections 100644 and 100755, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this part and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) Pursuant to this section, the Treasurer shall sell the bonds authorized by the State School Building Finance Committee established by Section 15909 or the Higher Education Facilities Finance Committee established pursuant to Section 67353, as the case may be, at any different times necessary to service expenditures required by the apportionments.

Chapter 2. Kindergarten Through 12th Grade


100610. The proceeds of bonds issued and sold pursuant to Article 2 (commencing with Section 100625) shall be deposited in the 2002 State School Facilities Fund, which is established in Section 17070.40, and shall be allocated by the State Allocation Board pursuant to this chapter.

100615. All moneys deposited in the 2002 State Facilities Fund for the purposes of this chapter shall be available and, notwithstanding any other provision of law to the contrary, are hereby appropriated to provide aid to school districts, county superintendents of schools, and county boards of education of the state in accordance with the Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10) of Part 10), as set forth in Section 100620, to provide funds to repay any money advanced or loaned to the 2002 State School Facilities Fund under any act of the Legislature, together with interest provided for in that act, and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code.

100620. (a) The proceeds from the sale of bonds, issued and sold for the purposes of this chapter, shall be allocated in accordance with the following schedule:

(1) The amount of three billion four hundred fifty million dollars ($3,450,000,000) for new construction of school facilities of applicant school districts under Chapter 12.5 (commencing with Section 17070.10) of Part 10 for those school districts that file an application with the Office of Public School Construction after February 1, 2002, including, but not limited to, hardship applications.

(A) Of the amount allocated pursuant to this paragraph, up to one hundred million dollars ($100,000,000) shall be available for providing school facilities to charter schools pursuant to a statute enacted after the effective date of the act enacting this section.

(B) If the Housing and Emergency Shelter Trust Fund Act of 2002 is submitted to the voters at the November 5, 2002, general election and fails passage by the
voters, of the amount allocated pursuant to this paragraph, twenty-five million dollars ($25,000,000) shall be available for the purposes of Sections 51451.5, 51453, and 51455 of the Health and Safety Code.

(2) The amount of one billion four hundred million dollars ($1,400,000,000) for the modernization of school facilities pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10 for those school districts that file an application with the Office of Public School Construction after February 1, 2002, including, but not limited to, hardship applications.

(3) The amount of two billion nine hundred million dollars ($2,900,000,000) for new construction of school facilities pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10 for those school districts that have filed an application with the Office of Public School Construction on or before February 1, 2002, including, but not limited to, hardship applications. If the amount made available for purposes of this paragraph is not needed and expended for the purposes of this paragraph, the State Allocation Board may allocate the remainder of these funds for purposes of paragraph (1).

(4) The amount of one billion nine hundred million dollars ($1,900,000,000) for the modernization of school facilities pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10, for those school districts that have filed an application with the Office of Public School Construction on or before February 1, 2002, including, but not limited to, hardship applications. If the amount made available for purposes of this paragraph is not needed and expended for the purposes of this paragraph, the State Allocation Board may allocate these funds for purposes of paragraph (2).

(5) The amount of one billion seven hundred million dollars ($1,700,000,000) for deposit into the 2002 Critically Overcrowded School Facilities Account established within the 2002 State School Facilities Fund pursuant to subdivision (e) of Section 17078.10, for the purposes set forth in Article 11 (commencing with Section 17078.10) of Chapter 12.5 of Part 10 relating to critically overcrowded schools, including, but not limited to, hardship applications, and any other new construction or modernization projects as authorized pursuant to Section 17078.30.

(6) The amount of fifty million dollars ($50,000,000) for the purposes set forth in Article 10.6 (commencing with Section 17077.40) of Chapter 12.5 of Part 10 relating to joint-use projects, including, but not limited to, hardship applications.

(b) School districts may use funds allocated pursuant to paragraphs (2) and (4) of subdivision (a) only for one or more of the following purposes in accordance with Chapter 12.5 (commencing with Section 17070.10) of Part 10:

(1) The purchase and installation of air-conditioning equipment and insulation materials, and related costs.

(2) Construction projects or the purchase of furniture or equipment designed to increase school security or playground safety.

(3) The identification, assessment, or abatement in school facilities of hazardous asbestos.

(4) Project funding for high priority roof replacement projects.

(5) Any other modernization of facilities pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10.

(c) Funds allocated pursuant to paragraphs (1) and (3) of subdivision (a) may, also, be utilized to provide new construction grants for eligible applicant county boards of education under Chapter 12.5 (commencing with Section
(d)(1) The Legislature may amend this section to adjust the funding amounts specified in paragraphs (1) to (6), inclusive, of subdivision (a), only by either of the following methods:

(A) By a statute, passed in each house of the Legislature by rollcall vote entered in the respective journals, by not less than two-thirds of the membership in each house concurring, if the statute is consistent with, and furthers the purposes of, this chapter.

(B) By a statute that becomes effective only when approved by the voters.

(2) Amendments pursuant to this subdivision may adjust the amounts to be expended pursuant to paragraphs (1) to (6), inclusive, of subdivision (a), but may not increase or decrease the total amount to be expended pursuant to that subdivision.

(e) From the total amounts set forth in paragraphs (1) to (6), inclusive, of subdivision (a), a total of no more than twenty million dollars ($20,000,000) shall be used for the costs of energy conservation adjustments authorized pursuant to Section 17077.35.

(f) Funds available pursuant to this section may be used for acquisition of school facilities authorized pursuant to Section 17280.5.


100625. (a) Of the total amount of bonds authorized to be issued and sold pursuant to Chapter 1 (commencing with Section 100600), bonds in the total amount of eleven billion four hundred million dollars ($11,400,000,000) not including the amount of any refunding bonds issued in accordance with Section 100644, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) Pursuant to this section, the Treasurer shall sell the bonds authorized by the State School Building Finance Committee established pursuant to Section 15909 at any different times necessary to service expenditures required by the apportionments.

100627. The State School Building Finance Committee, established by Section 15909 and composed of the Governor, the Controller, the Treasurer, the Director of Finance, and the Superintendent of Public Instruction, or their designated representatives, all of whom shall serve thereon without compensation, and a majority of whom shall constitute a quorum, is continued in existence for the purpose of this chapter. The Treasurer shall serve as chairperson of the committee. Two Members of the Senate appointed by the Senate Committee on Rules, and two Members of the Assembly appointed by the Speaker of the Assembly, shall meet with and provide advice to the committee to the extent that the advisory participation is not incompatible with their respective positions as Members of the Legislature. For the purposes of this chapter, the Members of the Legislature shall constitute an interim investigating committee on the subject
of this chapter and, as that committee, shall have the powers granted to, and
duties imposed upon, those committees by the Joint Rules of the Senate and the
Assembly. The Director of Finance shall provide assistance to the committee
as it may require. The Attorney General of the state is the legal adviser of the
committee.

100630. (a) The bonds authorized by this chapter shall be prepared,
executed, issued, sold, paid, and redeemed as provided in the State General
Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of
Division 4 of Title 2 of the Government Code), and all of the provisions of that
law, except Section 16727 of the Government Code, apply to the bonds and to
this chapter and are hereby incorporated into this chapter as though set forth in
full within this chapter.

(b) For purposes of the State General Obligation Bond Law, the State
Allocation Board is designated the “board” for purposes of administering the
2002 State School Facilities Fund.

100632. Upon request of the State Allocation Board from time to time,
supported by a statement of the apportionments made and to be made for
the purposes described in Sections 100615 and 100620, the State School
Building Finance Committee shall determine whether or not it is necessary or
desirable to issue bonds authorized pursuant to this chapter in order to fund the
apportionments and, if so, the amount of bonds to be issued and sold. Successive
issues of bonds may be authorized and sold to fund those apportionments
progressively, and it is not necessary that all of the bonds authorized to be issued
be sold at any one time.

100634. There shall be collected each year and in the same manner and
at the same time as other state revenue is collected, in addition to the ordinary
revenues of the state, a sum in an amount required to pay the principal of, and
interest on, the bonds each year. It is the duty of all officers charged by law with
any duty in regard to the collection of the revenue to do and perform each and
every act that is necessary to collect that additional sum.

100635. Notwithstanding Section 13340 of the Government Code, there
is hereby appropriated from the General Fund in the State Treasury, for the
purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on,
bonds issued and sold pursuant to this chapter, as the principal and interest
become due and payable.

(b) The sum necessary to carry out Section 100640, appropriated without
regard to fiscal years.

100636. The State Allocation Board may request the Pooled Money
Investment Board to make a loan from the Pooled Money Investment Account
or any other approved form of interim financing, in accordance with Section
16312 of the Government Code, for the purpose of carrying out this chapter. The
amount of the request shall not exceed the amount of the unsold bonds that the
committee, by resolution, has authorized to be sold for the purpose of carrying
out this chapter. The board shall execute any documents required by the Pooled
Money Investment Board to obtain and repay the loan. Any amounts loaned shall
be deposited in the fund to be allocated by the board in accordance with this
chapter.

100638. Notwithstanding any other provision of this chapter, or of the
State General Obligation Bond Law, if the Treasurer sells bonds pursuant to
this chapter that include a bond counsel opinion to the effect that the interest
on the bonds is excluded from gross income for federal tax purposes, subject to
designated conditions, the Treasurer may maintain separate accounts for the
investment of bond proceeds and for the investment earnings on those proceeds.
The Treasurer may use or direct the use of those proceeds or earnings to pay any
rebate, penalty, or other payment required under federal law or take any other
action with respect to the investment and use of those bond proceeds required
or desirable under federal law to maintain the tax-exempt status of those bonds
and to obtain any other advantage under federal law on behalf of the funds of
this state.

100640. For the purposes of carrying out this chapter, the Director of
Finance may authorize the withdrawal from the General Fund of an amount
not to exceed the amount of the unsold bonds that have been authorized by the
State School Building Finance Committee to be sold for the purpose of carrying
out this chapter. Any amounts withdrawn shall be deposited in the 2002 State
School Facilities Fund consistent with this chapter. Any money made available
under this section shall be returned to the General Fund, plus an amount equal
to the interest that the money would have earned in the Pooled Money Investment
Account, from proceeds received from the sale of bonds for the purpose of
carrying out this chapter.

100642. All money deposited in the 2002 State School Facilities Fund, that
is derived from premium and accrued interest on bonds sold shall be reserved
in the fund and shall be available for transfer to the General Fund as a credit to
expenditures for bond interest.

100644. The bonds may be refunded in accordance with Article 6 (com-
mencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the
Government Code, which is a part of the State General Obligation Bond Law.
Approval by the voters of the state for the issuance of the bonds described in this
chapter includes the approval of the issuance of any bonds issued to refund any
bonds originally issued under this chapter or any previously issued refunding
bonds.

100646. The Legislature hereby finds and declares that, inasmuch as the
proceeds from the sale of bonds authorized by this chapter are not “proceeds of
taxes” as that term is used in Article XIII B of the California Constitution, the
disbursement of these proceeds is not subject to the limitations imposed by that
article.

CHAPTER 3. HIGHER EDUCATION FACILITIES

Article 1. General

100650. (a) The system of public higher education in this state includes the
University of California, the Hastings College of the Law, the California State
University, the California Community Colleges, and their respective off-campus
centers.

(b) The 2002 Higher Education Capital Outlay Bond Fund is hereby
established in the State Treasury for deposit of funds from the proceeds of bonds
issued and sold for the purposes of this chapter.

(c) The Higher Education Facilities Finance Committee established pursuant
to Section 67353 is hereby authorized to create a debt or debts, liability or
liabilities, of the State of California pursuant to this chapter for the purpose of
providing funds to aid the University of California, the Hastings College of the
Law, the California State University, and the California Community Colleges.
Article 2. Program Provisions Applicable to the University of California and the Hastings College of the Law

100652. (a) From the proceeds of bonds issued and sold pursuant to Article 5 (commencing with Section 100700), the sum of four hundred eight million two hundred sixteen thousand dollars ($408,216,000) shall be deposited in the 2002 Higher Education Capital Outlay Bond Fund for the purposes of this article. When appropriated, these funds shall be available for expenditure for the purposes of this article.

(b) The purposes of this article include assisting in meeting the capital outlay financing needs of the University of California and the Hastings College of the Law.

(c) Proceeds from the sale of bonds issued and sold for the purposes of this article may be used to fund construction on existing campuses, including the construction of buildings and the acquisition of related fixtures, construction of facilities that may be used by more than one segment of public higher education (intersegmental), the renovation and reconstruction of facilities, site acquisition, the equipping of new, renovated, or reconstructed facilities, which equipment shall have an average useful life of 10 years; and to provide funds for the payment of preconstruction costs, including, but not limited to, preliminary plans and working drawings for facilities of the University of California and the Hastings College of the Law.

Article 3. Program Provisions Applicable to the California State University

100653. (a) From the proceeds of bonds issued and sold pursuant to Article 5 (commencing with Section 100700), the sum of four hundred ninety-five million nine hundred thirty-two thousand dollars ($495,932,000) shall be deposited in the 2002 Higher Education Capital Outlay Bond Fund for the purposes of this article. When appropriated, these funds shall be available for expenditure for the purposes of this article.

(b) The purposes of this article include assisting in meeting the capital outlay financing needs of the California State University.

(c) Proceeds from the sale of bonds issued and sold for the purposes of this article may be used to fund construction on existing campuses, including the construction of buildings and the acquisition of related fixtures, construction of facilities that may be used by more than one segment of public higher education (intersegmental), the renovation and reconstruction of facilities, site acquisition, the equipping of new, renovated, or reconstructed facilities, which equipment shall have an average useful life of 10 years; and to provide funds for the payment of preconstruction costs, including, but not limited to, preliminary plans and working drawings for facilities of the California State University.

Article 4. Program Provisions Applicable to the California Community Colleges

100654. (a) From the proceeds of bonds issued and sold pursuant to Article 5 (commencing with Section 100700), the sum of seven hundred forty-five million eight hundred fifty-three thousand dollars ($745,853,000) shall be deposited in the 2002 Higher Education Capital Outlay Bond Fund for the purposes of this article. When appropriated, these funds shall be available for expenditure for the purposes of this article.
(b) The purposes of this article include assisting in meeting the capital outlay financing needs of the California Community Colleges.

(c) Proceeds from the sale of bonds issued and sold for the purposes of this article may be used to fund construction on existing campuses, including the construction of buildings and the acquisition of related fixtures, construction of facilities that may be used by more than one segment of public higher education (intersegmental), the renovation and reconstruction of facilities, site acquisition, the equipping of new, renovated, or reconstructed facilities, which equipment shall have an average useful life of 10 years; and to provide funds for the payment of preconstruction costs, including, but not limited to, preliminary plans and working drawings for facilities of the California Community Colleges.


100700. (a) Of the total amount of bonds authorized to be issued and sold pursuant to Chapter 1 (commencing with Section 100600), bonds in the total amount of one billion six hundred fifty million dollars ($1,650,000,000), not including the amount of any refunding bonds issued in accordance with Section 100755, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) It is the intent of the Legislature that the University of California, the California State University, and the California Community Colleges annually consider, as part of their annual capital outlay planning process, the inclusion of facilities that may be used by more than one segment of public higher education (intersegmental), and, that on or before May 15th of each year, those entities report their findings to the budget committees of each house of the Legislature.

(c) Pursuant to this section, the Treasurer shall sell the bonds authorized by the Higher Education Facilities Finance Committee established pursuant to Section 67353 at any different times necessary to service expenditures required by the apportionments.

100710. (a) The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law, except Section 16727 of the Government Code, apply to the bonds and to this chapter and are hereby incorporated into this chapter as though set forth in full within this chapter.

(b) For the purposes of the State General Obligation Bond Law, each state agency administering an appropriation of the 2002 Higher Education Capital Outlay Bond Fund is designated as the “board” for projects funded pursuant to this chapter.

(c) The proceeds of the bonds issued and sold pursuant to this chapter shall be available for the purpose of funding aid to the University of California, the Hastings College of the Law, the California State University, and the California Community Colleges, for the construction on existing or new campuses, and their respective off-campus centers and joint use and intersegmental facilities, as set forth in this chapter.
100720. The Higher Education Facilities Finance Committee established pursuant to Section 67353 shall authorize the issuance of bonds under this chapter only to the extent necessary to fund the apportionments for the purposes described in this chapter that are expressly authorized by the Legislature in the annual Budget Act. Pursuant to that legislative direction, the committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the purposes described in this chapter and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

100725. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which is necessary to collect that additional sum.

100730. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum necessary to carry out Section 100745, appropriated without regard to fiscal years.

100735. The board, as defined in subdivision (b) of Section 100710, may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account or any other approved form of interim financing, in accordance with Section 16312 of the Government Code, for the purpose of carrying out this chapter. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this chapter. The board, as defined in subdivision (b) of Section 100710, shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

100740. Notwithstanding any other provision of this chapter, or of the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this chapter that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and for the investment earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or take any other action with respect to the investment and use of those bond proceeds required or desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.
100745. (a) For the purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount not to exceed the amount of the unsold bonds that have been authorized by the Higher Education Facilities Finance Committee to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the 2002 Higher Education Capital Outlay Bond Fund consistent with this chapter. Any money made available under this section shall be returned to the General Fund, plus an amount equal to the interest that the money would have earned in the Pooled Money Investment Account, from proceeds received from the sale of bonds for the purpose of carrying out this chapter.

(b) Any request forwarded to the Legislature and the Department of Finance for funds from this bond issue for expenditure for the purposes described in this chapter by the University of California, the Hastings College of the Law, the California State University, or the California Community Colleges shall be accompanied by the five-year capital outlay plan. Requests forwarded by a university or college shall include a schedule that prioritizes the seismic retrofitting needed to significantly reduce, in the judgment of the particular university or college, seismic hazards in buildings identified as high priority by the university or college. Requests forwarded by the California Community Colleges shall be accompanied by a five-year capital outlay plan reflecting the needs and priorities of the community college system, prioritized on a statewide basis.

100750. All money deposited in the 2002 Higher Education Capital Outlay Bond Fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

100755. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds described in this chapter includes the approval of the issuance of any bonds issued to refund any bonds originally issued under this chapter or any previously issued refunding bonds.

100760. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not “proceeds of taxes” as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.
MEASURES DEFEATED

INITIATIVE STATUTES

51. **Transportation. Distribution of Existing Motor Vehicle Sales and Use Tax.**

[Submitted by the initiative and rejected by electors November 5, 2002.]

**PROPOSED LAW**

SECTION 1. The People of the State of California find and declare all of the following:

(a) Traffic congestion threatens to strangle economic growth in many parts of California. It threatens our safety, reduces productivity, impairs family life, restricts the movement of people, goods, and services, and is a source of endless frustration to motorists and other travelers.

(b) There are more than 1,000 unsafe school buses that do not meet federal safety standards operating in California today. There are an additional 6,500 school buses that are so old that they expose our children to toxic air pollution. By providing funds to school districts for school bus replacement, the districts will be able to take more children to and from school, reducing the trips parents need to make. This will provide cleaner air and reduce traffic congestion.

(c) Reducing highway bottlenecks will reduce traffic congestion.

(d) Public transportation can reduce traffic congestion by giving people an alternative to driving.

(e) The existing state share of the sales tax paid on the sale and lease of motor vehicles is an appropriate source of revenue to pay for transportation-related improvements because the purchasers and lessees of motor vehicles will directly benefit from all the programs financed by this act.

(f) Assuring the wider availability of public transportation for those who cannot drive due to age, disability, or economic circumstance is good public policy, and will promote economic development and individual self-sufficiency.

(g) Transportation-related accidents are a significant cause of death, injury, and property damage. Children walking and taking bicycles to school must have safe walkways, paths, and bikeways. By making roads safer for pedestrians, bicyclists, and motorists, economic loss will be reduced, and the health and safety of Californians will be improved.

(h) By promoting the continued and expanded use of railroads for the more efficient movement of passengers and freight, traffic congestion and air pollution will be reduced.

(i) Air pollution generated by transportation is a serious health threat to most people in California. Technologies exist and are being developed that can reduce this air pollution, and they urgently need financial support for their implementation. Water pollution generated from roadway runoff and transportation related development must also be controlled, to reduce contamination of drinking water supplies and coastal waters.

(j) The impact of transportation on the natural environment can be severe, and it is appropriate to use public revenues that are related to transportation
to reduce or eliminate these impacts through an environmental enhancement program similar to the Environmental Enhancement and Mitigation Program.

(k) Providing security for passengers using public transportation is a necessary part of our transportation infrastructure, encouraging ridership, protecting public safety, and expanding transportation options.

(l) It is the intent of the people in adopting this measure that it not result in reduced funding for public education. The voters recognize that the General Fund revenues that are counted for the purpose of determining the minimum guaranteed funding for schools and community college districts under Section 8 of Article XVI of the California Constitution cannot be decreased by statute.

(m) This measure may be known and cited as the Traffic Congestion Relief and Safe School Bus Act.

SEC. 2. Section 7105 is added to the Revenue and Taxation Code, to read:

7105. (a) All of the following shall occur on a quarterly basis:

(1) The State Board of Equalization, in consultation with the Department of Finance and the Department of Motor Vehicles, shall estimate the amount that is transferred to the General Fund under subdivision (b) of Section 7102 that is attributable to revenue collected for the sale and lease of new and used motor vehicles. For purposes of this section, “sale and lease” does not include rental of motor vehicles.

(2) The State Board of Equalization shall inform the Controller, in writing, of the amount estimated under paragraph (1).

(3) Upon receipt of the notice required under paragraph (2), the Controller shall transfer thirty percent (30%) of the amount estimated under paragraph (1) from the General Fund to the Traffic Congestion Relief and Safe School Bus Trust Fund (hereinafter referred to as the “fund”), which is hereby established in the State Treasury.

(b) Notwithstanding Section 13340 of the Government Code, the following percentages and specified amounts of the money in the fund shall be continuously appropriated to the Controller without regard to fiscal years, and shall be transferred by the Controller to the following accounts, which are hereby established in the fund:

(1) Sixteen percent (16%) to the Congestion Bottleneck Account, for transfer by the Controller to the California Transportation Commission, to be expended as follows:

(A) (i) To the Traffic Congestion Relief Fund for the projects listed in Section 14556.40 of the Government Code. Any money transferred under this paragraph and not expended during the fiscal year during which it was transferred shall revert to the Congestion Bottleneck Account and shall be available for reallocation in accordance with subparagraph (B).

(ii) The California Transportation Commission may adjust the total amount to be allocated to each project listed in Section 14556.40 of the Government Code pursuant to the authority conferred in subdivision (f) of Section 14556.20 of the Government Code. Money shall be transferred quarterly to the Traffic Congestion Relief Fund from the Congestion Bottleneck Account in such amounts as are needed in the aggregate for reimbursing each applicant the cost of the current phase of the project, in accordance with the schedule of allocations for each project approved by the California Transportation Commission pursuant to Section 14556.20 of the Government Code. Applicants, including the Department of Transportation, for grants from the Traffic Congestion Relief Fund shall demonstrate in the application that they have made the maximum effort to seek...
local, private, and federal funds to assist in the completion of these projects. If only a study or a specific part or phase of a project is authorized for a project listed in subdivision (a) of Section 14556.40 of the Government Code, only the study or the specific part or phase shall be financed, and no other part or phase of the project shall be financed from this account. Grants shall be made pursuant to this paragraph only for studies for projects listed in paragraphs (6), (12), (15), (22), (25), (114), (121), and (154) of subdivision (a) of Section 14556.40 of the Government Code.

(iii) Prior to making the allocations pursuant to clause (i), the commission shall allocate two million dollars ($2,000,000) per year from the account for a competitive local assistance program for the preparation of alternative planning scenarios pursuant to Section 65080.3 of the Government Code. Only regional transportation planning agencies may apply for grants, and grants shall be awarded on the basis of compliance with Section 65080.3 of the Government Code.

(B) (i) Any money reverted to the Congestion Bottleneck Account under subparagraph (A) shall be reallocated by the commission for expenditure on state, regional, or local highway and street projects that improve the flow of traffic within an existing publicly owned roadway by adding high-occupancy vehicle or high-occupancy toll lanes where none is present, or accomplishing other, similar traffic flow improvement projects, such as truck climbing lanes, within existing roadways.

(ii) All money expended pursuant to this subparagraph (B) shall be expended within the city limits of cities, or within urbanized parts of counties that have population densities of not less than 1,000 persons per square mile.

(iii) Sixty percent (60%) of the money reallocated pursuant to this subparagraph (B) shall be expended in County Group 2 and forty percent (40%) shall be expended in County Group 1.

(C) Notwithstanding the requirements of subparagraphs (A) and (B), money in the Congestion Bottleneck Account shall first be allocated to the following projects:

(i) To the local transportation improvement agency with zoning and land use authority over the following designated area, ten million dollars ($10,000,000) per year during the 2003–04 to 2011–12, inclusive, fiscal years for highway, roadway, and street infrastructure improvements that improve motorist and pedestrian safety and reduce traffic congestion and traffic congestion bottlenecks in the area generally bounded by Campus Drive, State Route 55 (the Costa Mesa Freeway), Harvard Avenue, and Barranca Parkway. Design and construction shall be carried out by the jurisdiction within which each project is located.

(ii) To the City and County of San Francisco Golden Gate Park Concourse Authority, ten million dollars ($10,000,000) per year during the 2003–04 to 2006–07, inclusive, fiscal years for the construction of improvements in the Music Concourse area of Golden Gate Park, within which the California Academy of Sciences and the M. H. de Young Memorial Museum are situated, in accordance with the provisions of Proposition J, approved by the voters of the City and County of San Francisco on June 2, 1998. Improvements to the Concourse shall enhance the natural, scenic, and recreational values of the Park and, in coordination with other Concourse-area improvement projects, this money may be used for transportation, bus parking, area parking management, and environmental improvements that will reduce the impact of automobiles in Golden Gate Park while assuring safe, reliable, and convenient access for visitors to the park. This money may not be used for design or construction of the underground parking facility.
(iii) To the City of Irvine, ten million dollars ($10,000,000) per year during the 2003–04 to 2007–08, inclusive, fiscal years for the development, construction (including construction of parking structures), and acquisition and operation of remote airport terminals, and the acquisition of vehicles for the system, connecting the City of Irvine to Los Angeles International Airport, Santa Ana John Wayne International Airport, Long Beach Airport, Ontario International Airport, and other airports in Southern California.

(iv) To the Department of Transportation, twelve million five hundred thousand dollars ($12,500,000) per year during the 2003–04 to 2009–10, inclusive, fiscal years for improvements needed to extend the Highway 110 Transitway from its existing northerly terminus to Los Angeles Union Station via a northern extension to Interstate 10, easterly to Alameda Street, and northerly along Alameda Street to an interface with the existing El Monte Busway terminus at Los Angeles Union Station.

(v) To the Department of Transportation, five million dollars ($5,000,000) for the 2003–04 fiscal year for the construction of a new interchange to replace an existing interchange with seismic deficiencies on Interstate 5 at Laval Road.

(vi) To the City of Laguna Woods, two million dollars ($2,000,000) for the 2003–04 fiscal year to improve the flow of traffic along El Toro Road. This money may be used to acquire rights-of-way, make modifications to streets and roads, move median strips, improve lighting, install and modify traffic signals, and for other improvements to make the route safe and convenient. This money may also be used for the development of an alternative vehicle route along El Toro Road, suitable for bicycles, golf carts, electric scooters, pedestrians, and other forms of non-motorized vehicle transportation.

(vii) To the Department of Transportation, thirteen million seven hundred thousand dollars ($13,700,000) during the 2004–05 to 2013–14, inclusive, fiscal years, for design, right-of-way acquisition, and construction of connections between State Route 56 and Interstate 5, including related improvements on Interstate 5, with first priority for expenditures given to ramps for westbound State Route 56 connecting with Interstate 5 north and Interstate 5 south connecting with eastbound State Route 56. The project will facilitate the improvement of traffic through the I-5/I-805 merge.

(viii) To the Department of Transportation, two million dollars ($2,000,000) per year during the 2004–05 to 2006–07, inclusive, fiscal years for design and environmental review of High Occupancy Vehicle lanes and truck lanes on Interstate 5 between State Route 14 and State Route 126.

(ix) To the City of Santa Clarita, four million five hundred thousand dollars ($4,500,000) per year during the 2003–04, 2004–05, and 2008–09 fiscal years for right-of-way acquisition and construction costs for the I-5/SR-126 (Magic Mountain Parkway) interchange and associated relocation and widening of The Old Road and State Route 126 from I-5 to McBean Parkway.

(x) To the Department of Transportation, two million five hundred thousand dollars ($2,500,000) per year during the 2003–04 to 2005–06, inclusive, fiscal years for right-of-way acquisition and construction costs for the 15/SR-126 (Magic Mountain Parkway) interchange and associated widening of SR-126 and improvement of the Commerce Center Drive interchange with State Route 126. Design and construction shall be carried out by the jurisdiction within which each project is located.
(xi) To the County of Los Angeles, three million dollars ($3,000,000) per year during the 2003–04 and 2004–05 fiscal years for right-of-way acquisition and construction costs for Interstate 5/Hasley Canyon Road interchange.

(xii) To the Department of Transportation, ten million dollars ($10,000,000) per year during the 2003–04 to 2010–11, inclusive, fiscal years for implementation of congestion relief projects along U.S. 101 between State Route 23 and State Route 170 recommended pursuant to the corridor analysis authorized by paragraph (48) of subdivision (a) of Section 14556.40 of the Government Code.

(xiii) To the Department of Transportation, five million dollars ($5,000,000) per year during the 2003–04 to 2004–05, inclusive, fiscal years for implementation of an Intelligent Transportation Systems (ITS) program, specifically including advanced traffic signal control systems, transit signal intervention systems, shuttle system linkage to existing light rail transit stations and educational and employment centers, in the area bounded by Interstate 710, Interstate 405, Interstate 605, and State Route 91. The implementation of this ITS program shall be in partnership with California State University Long Beach and its transportation technology section, and the Transportation Program at Long Beach City College campus.

(xiv) To the City of La Cañada-Flintridge, five million dollars ($5,000,000) per year during the 2003–04 to 2004–05, inclusive, fiscal years for local funding of state highway soundwalls, pursuant to Section 215.6 of the Streets and Highways Code, located on the eastbound and westbound sides of Interstate 210 in La Cañada-Flintridge and listed on the Los Angeles County Metropolitan Transportation Authority’s Retrofit Soundwall Program “Post May 1989 List.”

(2) (A) Sixteen percent (16%) to the Transit Service Expansion and Enhancements Account, for allocation by the Controller for bus, light rail, and commuter rail operations, transit equipment and facility improvement, maintenance, and rehabilitation, and transit passenger security, as follows: Fifty percent (50%) in the manner as provided for allocation of State Transit Assistance funds pursuant to Sections 99314 and 99314.3 of the Public Utilities Code, except that money shall be allocated directly to transit operators by the Controller, and fifty percent (50%) to transportation planning agencies for allocation to transit operators in the same manner as provided for allocation of State Transit Assistance funds pursuant to Section 99313 of the Public Utilities Code, except that this money shall be allocated by the transportation planning agency only to transit operators and not for other purposes.

(B) (i) To be eligible to receive an allocation pursuant to this paragraph (2), the public agency receiving money pursuant to this paragraph shall annually expend from its general fund for public transportation operations an amount not less than the annual average of its expenditures from its general fund during the 1996–97, 1997–98, and 1998–99 fiscal years, as reported to the Controller pursuant to Section 99243 of the Public Utilities Code, and as increased by the Consumer Price Index. For purposes of this subparagraph, in calculating a public agency’s annual general fund expenditures and its average general fund expenditures for the 1996–97, 1997–98, and 1998–99 fiscal years, any unrestricted money that the public agency may expend at its discretion shall be considered expenditures from the general fund.

(ii) For any public agency created on or after July 1, 1996, the Controller shall calculate an annual average of expenditure for the part of the period from July 1, 1996, to December 31, 2000, inclusive, that the public agency was in
existence. For any public agency created after 2000, the Controller may select an appropriate period of analysis.

(iii) For purposes of clause (ii), the Controller may request fiscal data from public agencies in addition to data provided pursuant to Section 99243 of the Public Utilities Code, for the 1996–97, 1997–98, 1998–99, or any other fiscal years. Each public agency shall furnish the data to the Controller not later than 120 days after receiving the request. The Controller may withhold payment to public agencies that do not comply with the request for information or provide incomplete data.

(iv) The Controller may perform audits to ensure compliance with clause (ii) when deemed necessary. Any public agency that has not complied with clause (ii) shall reimburse the state for the money it received during that fiscal year. Any money withheld or returned as a result of a failure to comply with clause (ii) shall be reallocated to the other eligible public agencies whose expenditures are in compliance.

(v) If a public agency fails to comply with the requirements of clause (ii) in a particular fiscal year, the public agency may expend during that fiscal year and the following fiscal year a total amount that is not less than the total amount required to be expended for those fiscal years for purposes of complying with clause (ii).

(C) (i) Notwithstanding the requirements of subparagraphs (A) and (B), one-half of one percent (.5%) of the account shall be allocated each fiscal year as a first priority by the Controller to the State Coastal Conservancy, for a grant to a nonprofit organization one of whose principal purposes is to support and improve the Golden Gate National Recreation Area, for expenditure (including by contract with public and private transportation agencies and companies) to provide improved transportation services to transit-dependent neighborhoods, community groups, and schools to the programs of the Crissy Field Center, and for transportation services between the Center and other locations in the National Recreation Area. The grant may be also used for acquisition and maintenance of vehicles needed to provide these services, for information and education about the services, and for management and administration of the programs authorized by this clause (i).

(ii) Notwithstanding the requirements of subparagraphs (A) and (B), one-half of one percent (.5%) of the account shall be allocated each fiscal year as a first priority by the Controller to the State Coastal Conservancy, for a grant to a nonprofit organization one of whose principal purposes is to improve the Golden Gate National Recreation Area, for expenditure on projects for operation and maintenance of, and improvements and enhancements to, public access, transit services, congestion relief, and bicycle and pedestrian safety. The grant may also be used for improvements and enhancements of shoreline and other natural areas that have been impacted by highways within the National Recreation Area, project administration, and management of the program authorized by this clause (ii).

(iii) Notwithstanding the requirements of subparagraphs (A) and (B), one million dollars ($1,000,000) per year shall be allocated each fiscal year as a first priority by the Controller to the Department of Parks and Recreation, for a grant to a nonprofit organization one of whose principal purposes is to support the California State Railroad Museum for general operating support of the Railroad Technology Museum at the Historic Southern Pacific Shops at Sacramento.
(iv) Notwithstanding the requirements of paragraphs (A) and (B), one-half of one percent (.5%) of the account shall be allocated as a first priority by the Controller to the State Coastal Conservancy, for a grant to a nonprofit organization one of whose principal purposes is to improve and sustain historic Fort Mason in San Francisco, for expenditure on projects for operation and maintenance of, and improvements and enhancements to, the vintage E/F-Line rail transit service in San Francisco. These funds may also be used for project administration and management of the program authorized by this subparagraph.

(3) (A) (i) Seventeen percent (17%) to the Transit Capital Account, for projects to construct or improve light and commuter rail lines, build fueling stations for public transportation systems, purchase rolling stock and buses, construct other transit facilities, including, but not limited to, facilities needed to store and maintain equipment, and to purchase rights-of-way for public transportation projects, and for the other purposes of this paragraph (3).

(ii) Money in the Transit Capital Account shall be allocated by the California Transportation Commission directly to regional transportation planning agencies in accordance with the computations of county shares required by Section 188.8 of the Streets and Highways Code for expenditure as part of an existing program or programs developed pursuant to the laws governing the State Transportation Improvement Program, or as part of a new program or programs developed by a regional transportation planning agency. Sixty percent (60%) of the remaining money in the Transit Capital Account shall be expended in County Group 2 and forty percent (40%) shall be expended in County Group 1. This calculation shall be made after expenditures from the account for projects listed in subparagraph (D).

(B) Money allocated under this paragraph may not be used to construct administrative headquarters or other facilities that do not directly serve rail and bus transit users.

(C) The regional transportation planning agencies shall allocate the money based on dollars per new rider and other cost-effectiveness criteria, to be adopted by the commission as guidelines or regulations, that prioritize projects that reduce vehicle miles traveled or slow the rate of growth in vehicle miles traveled. Regulations or guidelines adopted under this subparagraph shall not be subject to review or approval of the Office of Administrative Law or subject to any other requirement of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(D) Notwithstanding the limitations in subparagraph (A) and subparagraph (C), money in the Transit Capital Account shall first be allocated to the following projects:

(i) To the Sacramento Regional Transit District, ten million dollars ($10,000,000) per year during the 2003–04 to 2012–13, inclusive, fiscal years for the extension of light rail service from downtown Sacramento to Sacramento International Airport.

(ii) To the Tahoe Transportation District, six million dollars ($6,000,000) per year during the 2003–04 to 2005–06, inclusive, fiscal years for the design and purchase of alternatively fueled boats, fueling stations, infrastructure, and dock improvements, for the initiation and implementation of waterborne transportation service on Lake Tahoe. The district shall coordinate its efforts with the Tahoe Metropolitan Planning Organization. All land-based facilities for this project shall be located in California. The district shall undertake this project only if the Tahoe Regional Planning Agency determines that the project
reduces traffic congestion and reliance on the private automobile, taking into account reduction in vehicle miles traveled, and air and water pollution in the Lake Tahoe Basin, in addition to fulfilling the requirements of the Tahoe Regional Planning Compact and the Regional Plan for Lake Tahoe. Up to five percent (5%) of the total amount may be used to plan the project. The district may seek matching state and federal grants for the service. Up to three hundred thousand dollars ($300,000) of the total amount may be used for development of a parking management plan for the Lake Tahoe Basin, including parking for the waterborne transportation passengers. The district may use up to eight million dollars ($8,000,000) of the total amount for the establishment of a dedicated, permanent operating reserve. Annually the interest from this reserve shall be used to pay for part of the operation of the service. The district may contract for the operation of the waterborne transportation service.

(iii) To the State Coastal Conservancy, one million dollars ($1,000,000) per year during the 2003–04 to 2005–06 inclusive, fiscal years, for a grant to a nonprofit organization one of whose principal purposes is to improve and sustain historic Fort Mason in San Francisco, for improvements to the vintage E/F Line rail transit service in San Francisco. Such improvements may include, but are not limited to, planning and implementation of an extension of the line to the San Francisco Maritime National Historic Park and Fort Mason Center, vintage vehicle rehabilitation and restoration, passenger stop enhancements, and improvements to related facilities. This money may also be used by the nonprofit organization for project administration and management of the program authorized by this subparagraph.

(iv) To the Department of Parks and Recreation, seven million dollars ($7,000,000) for the 2003–04 fiscal year, for a grant to a nonprofit organization one of whose principal purposes is to support the California State Railroad Museum and its Railroad Technology Museum, to construct the Railroad Technology Museum at the Historic Southern Pacific Shops at Sacramento.

(v) To the Los Angeles County Metropolitan Transportation Authority, seven million five hundred thousand dollars ($7,500,000) per year during the 2003–04 to 2012–13, inclusive, fiscal years to construct a tunnel under Exposition Boulevard to accommodate light rail, buses, and other motor vehicles at least from State Route 110 to west of Vermont Avenue. This project will enhance pedestrian safety for students and visitors to museums, classrooms, and activity centers in Exposition Park and adjacent University Park, as well as contribute to transit and transportation efficiency in this historic district.

(vi) To the Port of Oakland, five million dollars ($5,000,000) per year during the 2003–04 to 2012–13, inclusive, fiscal years for public transportation projects and related environmental projects, including acquisition and development of public transportation facilities, waterfront park and trail improvements, bicycle and pedestrian pathways and related restoration projects at Lake Merritt, and related infrastructure, along or connecting to the Oakland waterfront, extending from the Howard Terminal in the Jack London District area, to and including San Leandro Bay and the Lake Merritt Channel, provided that such projects are consistent with the Estuary Policy Plan (a portion of the Oakland General Plan), as may be amended; and for public transportation and environmental projects related to developments along Hegenberger Road between the Coliseum Bay Area Rapid Transit station and the Oakland International Airport, including projects specifically related to the BART to Airport Connector.
(vii) To the Redevelopment Agency of the City of Oakland, one million five hundred thousand dollars ($1,500,000) per year during the 2003–04 to 2012–13, inclusive, fiscal years to encourage transit-oriented development near downtown mass transit facilities, thereby reducing unnecessary commuting with motor vehicles. Two-thirds of this money shall be spent for the acquisition, construction, and equipping of the California State chartered Oakland School for the Arts so as to serve the above-described transit-oriented development.

The remainder of the money shall be spent for the planning and construction of transportation-related improvements in the vicinity of the Oakland City Hall consistent with the 17th Street and San Pablo Parking Study and the Central Business District Study for transportation infrastructure. Permissible projects include: bus parking, commuter van pooling parking, bicycle parking, improved BART access, area parking management, parking structures, and environmental mitigations.

(4) (A) Two percent (2%) to the Senior and Disabled Transportation Account, for allocation by the Controller as grants to transportation planning entities in accordance with the designations made in Section 29532 of the Government Code and Section 99214 of the Public Utilities Code to be used to provide transportation to seniors and people with disabilities otherwise unable to drive or take regularly scheduled public transportation. Twenty percent (20%) of the grants annually awarded pursuant to the program authorized by this paragraph shall be awarded to cities, counties, cities and counties, and other public agencies on a matching fund or service basis. If sufficient matching contributions are not available to use twenty percent (20%) of the grants, the remaining money shall be used for grants to public agencies that cannot provide matching contributions.

(B) (i) To be eligible for a grant pursuant to this paragraph (4), a public agency applying for a grant pursuant to this paragraph shall annually expend for senior and disabled transportation purposes an amount not less than the annual average of its expenditures from its general fund during the 1996–97, 1997–98, and 1998–99 fiscal years, as reported to the Controller pursuant to Section 99243 of the Public Utilities Code, and as increased by the Consumer Price Index. For purposes of this subparagraph, in calculating a public agency's annual general fund expenditures and its average general fund expenditures for the 1996–97, 1997–98, and 1998–99 fiscal years, any unrestricted money that the public agency may expend at its discretion shall be considered expenditures from the general fund.

(ii) For any public agency created on or after July 1, 1996, the Controller shall calculate an annual average of expenditure for the part of the period from July 1, 1996, to December 31, 2000, inclusive, that the public agency was in existence. For any public agency created after 2000, the Controller may select an appropriate period of analysis.

(iii) For purposes of clause ii, the Controller may request fiscal data from public agencies in addition to data provided pursuant to Section 99243 of the Public Utilities Code, for the 1996–97, 1997–98, 1998–99, or any other fiscal years. Each public agency shall furnish the data to the Controller not later than 120 days after receiving the request. The Controller may withhold payment to public agencies that do not comply with the request for information or provide incomplete data.

(iv) The Controller may perform audits to ensure compliance with clause ii when deemed necessary. Any public agency that has not complied with clause ii shall reimburse the state for the money it received during that fiscal year. Any
money withheld or returned as a result of a failure to comply with clause ii shall be reallocated to the other eligible public agencies whose expenditures are in compliance.

(v) If a public agency fails to comply with the requirements of clause ii in a particular fiscal year, the public agency may expend during that fiscal year and the following fiscal year a total amount that is not less than the total amount required to be expended for those fiscal years for purposes of complying with clause ii.

(5) (A) (i) Four percent (4%) to the Rail Grade Separations Account, for allocation by the California Transportation Commission pursuant to a priority list developed by the Public Utilities Commission in accordance with the requirements of this paragraph, to be used for projects to separate rail lines from streets, roads, and highways.

(ii) Except for the projects in subparagraph (D), money in the account shall be transferred for expenditure by the California Transportation Commission only in a fiscal year in which at least $15 million ($15,000,000) is also allocated to rail grade separation projects pursuant to Section 190 of the Streets and Highways Code. In a fiscal year in which at least $15 million ($15,000,000) is not also allocated to rail grade separation projects pursuant to Section 190 of the Streets and Highways Code, the money that would otherwise be transferred to the account in that fiscal year shall be transferred instead to the Transit Capital Account established by paragraph (3) of subdivision (b).

(B) First priority for use of the money allocated from the account shall be for grade separation projects across existing heavy rail lines, based on the amount of traffic congestion that would be relieved by the grade separation. High priority shall be given to projects on rail lines that serve ports, since these projects reduce the need for truck traffic by making rail lines safer.

(C) Money allocated from the account shall be used to accommodate bicycles and pedestrians in grade separation projects, and projects that accommodate only bicycles and pedestrians are eligible to receive funding pursuant to this paragraph.

(D) Notwithstanding the restrictions in subparagraphs (A), (B), and (C), money in the account shall first be allocated to the following projects:

(i) To the Southern California Regional Rail Authority, ten million dollars ($10,000,000) per year during the 2003–04 to 2006–07, inclusive, fiscal years for grade separations at Sand Canyon Road and Harvard Avenue. Design and construction shall be carried out by the jurisdictions within which each project is located.

(ii) To the City of San Bernardino, seven million five hundred thousand dollars ($7,500,000) per year during the 2003–04 to 2006–07, inclusive, fiscal years for the following grade separation improvements associated with the Norton Air Force Base Intermodal Goods Movement Facility: Tippecanoe Avenue south of Central Avenue; Waterman Avenue south of Central Avenue; Mill Street west of Waterman Avenue; and E Street south of Rialto Avenue.

(6) (A) Ten percent (10%) to the Transportation Impacts Mitigation Trust Fund, to be allocated by the Resources Agency in accordance with Section 164.57 of the Streets and Highways Code.

(i) At least one million dollars ($1,000,000) shall be expended in each fiscal year by the Resources Agency on facilities that assist wildlife in safely crossing transportation corridors, in order to increase motorist safety, reduce traffic congestion, and promote connectivity among wildlife populations. Sixty percent
(60%) of the money for wildlife crossings authorized by this subparagraph shall be expended in County Group 2 and forty percent (40%) shall be expended in County Group 1.

(ii) At least one million dollars ($1,000,000) shall be expended in or near urban or urbanizing areas in the region comprised of Orange, Riverside, San Bernardino, and San Diego Counties, each fiscal year by the Department of Food and Agriculture in accordance with subdivision (f) of Section 164.57 of the Streets and Highways Code.

(B) Notwithstanding subparagraph (A) and the restrictions of Section 164.57 of the Streets and Highways Code, the following amounts shall first be allocated from the trust fund:

(i) To the City of Irvine, ten million dollars ($10,000,000) per year during the 2003–04 to 2014–15, inclusive, fiscal years for the creation of a wildlife corridor and related trail systems connecting the Laguna Coast Wilderness Park and Crystal Cove State Park to the Orange County Central Park and Nature Preserve; and for infrastructure, landscaping, forestation, and recreational improvements for the Orange County Central Park and Nature Preserve, to mitigate the effects of Interstates 5 and 405 and other roads that interfere with wildlife migration in this area; and for bicycle and pedestrian crossings of streets and flood control improvements relating to transportation facilities, and other improvements along the Jeffrey Open Space Spine.

(ii) To the County of Riverside, six million dollars ($6,000,000) per year for the Western Riverside County Habitat Conservation Plan Implementation Program. First priority for the expenditure of this money shall be for land acquisition. The purpose of these expenditures is to acquire wildlife habitat to mitigate the effect of transportation and transportation-related development in Riverside County. During the 2003–04 to 2012–13, inclusive, fiscal years, not more than one million dollars ($1,000,000) may be expended for operations and maintenance of the lands acquired by the program. Commencing with the 2014–15 fiscal year, and during each subsequent fiscal year, up to five million dollars ($5,000,000) may be expended for operations and maintenance of the lands acquired by the program.

(iii) To the San Joaquin River Conservancy, five hundred thousand dollars ($500,000) per year, to be expended by the conservancy and at the direction of the conservancy for the acquisition of land, development of facilities, and the operation and maintenance thereof. Of this amount, the conservancy shall grant not less than twenty-five percent (25%) each year to nonprofit organizations in Fresno and Madera Counties one of whose principal purposes is conservation of and education about the San Joaquin River for projects that meet the requirements of this subparagraph. These expenditures are necessary because of the impacts of state highways and freeways such as State Routes 99 and 41, and other transportation corridors on the environment on and near the San Joaquin River.

(iv) To the Santa Monica Mountains Conservancy, eight million dollars ($8,000,000) each fiscal year, to be expended by the conservancy, and at the direction of the conservancy, by any joint powers agency of which the conservancy is a member, on projects that meet the requirements of this subparagraph and Section 164.57 of the Streets and Highways Code, including the operation and maintenance of the land acquired and facilities constructed pursuant to this subparagraph. Notwithstanding any other provision of law, one million dollars ($1,000,000) of the amount specified in this subparagraph shall annually be used for the acquisition and improvement of natural parks within the heavily
urbanized area of Los Angeles County. These expenditures are necessary because of the impacts of state highways and freeways such as Interstate 10, U.S. 101, State Routes 134 and 1, and many other state and local roads that have negatively impacted the environmental quality of the Santa Monica Mountains, and other lands that are to be preserved by the conservancy and its public agency partners.

(v) (I) To the County of Sacramento, one million dollars ($1,000,000) per year for the acquisition of land, development, and operation and maintenance of the American River Parkway, including trails, to promote greater use of the parkway. The parkway’s Jedediah Smith Memorial Trail (off-street) is a recreation resource of regional, state, and national significance, and is a major east-west, 23-mile long transportation corridor for commuter bicyclists. Use of the parkway by bicyclists and other recreational users is an important part of Sacramento County’s strategy to reduce public exposure to air pollution and toxic air contaminants by supporting bicycling, including the provision of bicycle circulation infrastructure for commuter and recreational travel. Improved levels of maintenance and enhanced public safety services in the parkway will promote increased use of the parkway by people traveling to and from work, school, and other destinations served by U.S. 50, Interstate 80, and other local arterials.

(II) To be eligible to receive an allocation pursuant to this subparagraph, the County of Sacramento shall annually expend from its general fund for the American River Parkway, an amount not less than the annual average of its expenditures from its general fund during the 1999–2000, 2000–01, and 2001–02 fiscal years as reported to the Controller, and as increased by the Consumer Price Index. In calculating the county’s annual general fund expenditures for the 1999–2000, 2000–01, and 2001–02 fiscal years, any unrestricted money that the county may expend at its discretion shall be considered expenditures from the general fund. The Controller may request fiscal data from the county for the fiscal years identified. The county shall furnish the data to the Controller not later than 120 days after receiving the request. The Controller may withhold payment to the county if it does not comply with the request for information or provides incomplete data. The Controller may perform audits to ensure compliance when deemed necessary. If the county does not comply, the county shall reimburse the state for the money it received during that fiscal year.

(vi) The following projects will mitigate the impact of transportation projects on wildlife corridors in Riverside County:

(I) To the County of Riverside, three million dollars ($3,000,000) per year for the San Timoteo Park project, including San Timoteo Creek and Canyon and adjacent land in the canyons and hills between Loma Linda and Beaumont. First priority for the expenditure of this money shall be for land acquisition. In a year in which no land can be acquired, the allocations shall be used to operate and maintain the lands acquired for the San Timoteo Park project.

(II) To the City of Riverside, one million dollars ($1,000,000) per year for the La Sierra/Norco Hills project between the cities of Riverside and Norco, including acquisition of land for habitat and a wildlife corridor connection to the Santa Ana River, and adjacent Santa Ana River Trail improvements. First priority for the expenditure of this money shall be for land acquisition, and second priority shall be for Santa Ana River Trail improvements. In years when no land can be acquired, and no trail improvements are needed, the money shall be used to operate and maintain the La Sierra/Norco Hills habitat area and the Santa Ana River Trail in the City of Riverside.
(vii) To the State Coastal Conservancy, two million dollars ($2,000,000) per year during the 2003–04 to 2004–05 inclusive, fiscal years, for a grant to a nonprofit organization one of whose principal purposes is to improve the Golden Gate National Recreation Area, for transportation improvements and related enhancements at or near oceanfront and bay shoreline sites in the National Recreation Area. Such improvements may include, but are not limited to, bicycle and pedestrian projects, transportation safety projects, park entrance projects, transit access projects, parking improvements that reduce the impact of motor vehicles on the visitor experience, visitor facilities, and beach and shoreline restoration of natural areas that have been impacted by roadways.

(viii) To the City of Laguna Woods, two million dollars ($2,000,000) for the 2003–04 fiscal year, for the acquisition of land within the city or within the sphere of influence of the city near or adjacent to the Laguna Coast Wilderness Park, and for the development of trails connecting to the park. The purpose of these funds is to reduce the impact of nearby transportation facilities on wildlife corridors.

(ix) To the State Coastal Conservancy, three million five hundred thousand dollars ($3,500,000) for the 2003–04 fiscal year, for a grant to a nonprofit organization one of whose principal purposes is the restoration of the San Diego River, for acquisition of land and the restoration of habitat along the river. The purpose of these funds is to mitigate the impact of transportation facilities such as State Route 67, Interstate 5, and other roads on the San Diego River.

(x) To the Department of Parks and Recreation, five million dollars ($5,000,000) per year during the 2003–04 to 2013–14 fiscal years, inclusive, for the acquisition of coastal wetlands resources located in Los Angeles County within the coastal zone, as defined in Section 30103 of the Public Resources Code, and within the Ballona Creek watershed to offset the effects of transportation improvements and road construction within the coastal zone in Los Angeles County.

(xi) To the City of Sacramento, two million dollars ($2,000,000) per year during the 2003–04 to 2004–05, inclusive, fiscal years, for the Downtown to the Riverfront Reconnection, to be developed on air rights over Interstate 5. The decking project, aimed at mitigating the impact of Interstate 5, will create open space and support the revitalization of the waterfront.

(xii) To the State Coastal Conservancy, one million dollars ($1,000,000) for the 2003–04 fiscal year, for a grant to a nonprofit organization one of whose principal purposes is the restoration and enhancement of bicycle paths, pedestrian trails, and related signage and lighting, and the acquisition and upgrade of pedestrian and bicycle access points to and along La Ballona Creek in the incorporated and unincorporated areas of Los Angeles County.

(xiii) To the State Coastal Conservancy, five hundred thousand dollars ($500,000) for the 2003–04 fiscal year, for a grant to a nonprofit organization in coastal Southern California to instruct schoolage children and the general public about non-point source pollution from automobiles, trucks, and other motor vehicles that enters the watersheds and storm drains leading to the ocean. The grant shall be used to acquire one or more Mobil Ocean and Traveling Discovery Center vehicles. Vehicles acquired with this money shall certify to the lowest achievable emission levels for criteria pollutants.

(xiv) To the Coachella Valley Mountains Conservancy, two million dollars ($2,000,000) each fiscal year, to be expended directly by the conservancy or
through grants from the conservancy to public agency partners, joint powers agencies, or nonprofit conservation organizations for the acquisition of land and the operation and maintenance thereof. The acquisitions shall assist in the local implementation of the Coachella Valley Multiple Species Habitat Conservation Plan/Natural Community Conservation Plan, and help implement the Conservancy’s mission to protect mountainous and natural community conservation lands in and surrounding the Coachella Valley. These expenditures are necessary because of the impacts of state and federal highways such as Interstate 10, and related interchange projects, State Routes 62, 74, 86, and 111 and many other state and local roads that have negatively impacted the environmental quality of the Coachella Valley.

(xv) To the State Coastal Conservancy, one million dollars ($1,000,000) for the 2003–04 fiscal year, for a grant to a nonprofit organization one of whose principal purposes is the preservation of the San Dieguito River, for the acquisition of land and the restoration of habitat along the San Dieguito River, and for the development of trails. These expenditures are to mitigate the effect of transportation and transportation-related development in and near the San Dieguito River Valley.

(xvi) To the Wildlife Conservation Board, ten million dollars ($10,000,000) for the 2003–04 fiscal year, for the acquisition of “natural lands” in the watershed of the Sacramento River with outstanding spring run and other salmon and steelhead populations, water rights important to the salmon and steelhead populations, important archaeological resources, and diverse wildlife populations. For the purposes of this subparagraph, acquisition shall be fee simple purchases and permanent conservation easements. For purposes of this subparagraph the “natural lands” shall be lands that include at least five miles of frontage on a major tributary of the Sacramento River and include 5,000 contiguous acres or more, and that are also large enough to substantially protect the watershed of a major tributary of the Sacramento River that meet the requirements of this subparagraph. This acquisition is to compensate for the damage done to salmon populations and archaeological resources in the Sacramento Valley by such transportation facilities as Interstate 5, State Routes 99 and 70, and other major roads and highways.

(xvii) (I) To the County of Sacramento, one million five hundred thousand dollars ($1,500,000) per year for expenditure in the area along the State Route 16, Scott Road, Deer Creek, and Cosumnes River corridors, and particularly the area north of State Route 16 lying west of the Amador and El Dorado County line, south of White Rock Road, and east of the westerly boundary of the East County Open Space study area as defined in 2001 by the Sacramento County Board of Supervisors and including the Sloughhouse area generally; and the area south of Highway 16 lying west of the Amador County line and north of Meiss Road, to be more specifically delineated by the Board of Supervisors. The money shall be expended within Sacramento County for the primary purpose of mitigating the impacts of transportation activities elsewhere in the county and the region, such as air, noise, and water pollution, by maintaining as much land as possible within the study area and associated corridors in a predominantly rural, scenic, and open space character through the use of cost-effective, incentive-driven cooperative programs with area landowners (with highest priority given to farmers and ranchers), and assisting with appropriate protection and improvement of the area’s roads and corridors to provide for their safe use and enjoyment by local and non-local users, consistent with continuing
their rural and scenic character. The money allocated by this subparagraph shall be expended pursuant to a program developed and approved by the Board of Supervisors.

(II) At least seventy-five percent (75%) of the money allocated pursuant to subclause (I) shall be expended in any 10-year period for the purpose of funding long-term contractual open space stewardship, management, and enhancement agreements with willing landowners to actively maintain and improve one or more mutually determined and preferably conjunctive open space values of the property, including, but not limited to, farming, ranching, wildlife habitat and related biological values, oaks and oak woodlands, riparian corridors, watersheds, historic and cultural resources, viewsheeds, and where mutually deemed appropriate, public access and recreation. Stewardship agreements shall cover a minimum of 320 acres and shall not include land owned in fee by a governmental agency or a tax-exempt nonprofit organization qualified under Section 501(c)(3) of the United States Internal Revenue Code. A proposed stewardship agreement program may be developed by the Sloughhouse Resource Conservation District for consideration for approval by the Board of Supervisors. Compensation for landowners pursuant to stewardship agreements shall be established by mutual consent, including, but not limited to, consideration of the length and terms of the agreement, the public interest value of the resources or activities covered, and the labor, services, and investment expected of the landowner. Where relevant and appropriate, costs shall generally be less than or competitive with costs typically incurred by public agencies using public employees to perform similar functions.

(III) Up to twenty-five percent (25%) of the money allocated pursuant to subclause (I) over any 10-year period may be used for safety improvements on Scott Road, including improvements to minimize the need to close Scott Road because of flooding, that are consistent with its rural and scenic character, for assisting in the maintenance, rehabilitation and reuse of the historic bridges over the Cosumnes River, and for preserving, restoring, and interpreting historic and cultural resources, particularly in the State Route 16 and Cosumnes River corridors and the Sloughhouse area.

(7) Two percent (2%) to the Transportation Water Quality Account, to be allocated by the State Water Resources Control Board for expenditure pursuant to Section 164.58 of the Streets and Highways Code.

(8) (A) Three percent (3%) to the Air Quality Account for allocation by the State Air Resources Board to the Carl Moyer Memorial Air Quality Standards Attainment Program established under Chapter 9 (commencing with Section 44275) of Part 5 of Division 26 of the Health and Safety Code, and any other additional transfers as provided in subparagraph (B). Each air district (as defined in Section 39025 of the Health and Safety Code) shall be eligible for grants of not less than one hundred thousand dollars ($100,000) per year. Any district with a population less than 150,000 shall not be required to provide matching funds.

(B) If the State Air Resources Board determines that money is no longer needed for the Carl Moyer Memorial Air Quality Standards Attainment Program, seventy-five percent (75%) of the money that would otherwise be deposited in the Air Quality Account shall be transferred to the Bicycle Efficiency Account and twenty-five percent (25%) shall be transferred to the Pedestrian Account, to be used for the purposes of those accounts.
(9) Two percent (2%) to the Bicycle Efficiency Account, to be allocated by the Department of Transportation for bicycle projects pursuant to Section 894.5 of the Streets and Highways Code.

(10) One percent (1%) to the Pedestrian Account, to be allocated by the Department of Transportation for projects to facilitate pedestrian utilization and pedestrian safety projects pursuant to Section 894.5 of the Streets and Highways Code and to accommodate paratransit needs at school bus stops.

(11) (A) Four percent (4%) to the Intercity and Commuter Rail Capital and Operations Account, to be allocated by the California Transportation Commission to the Department of Transportation and to public agencies operating commuter rail services, to be used for the operation of intercity and commuter rail service, to acquire rolling stock, to rehabilitate rail service, to construct new rail lines and stations, consolidate existing rail lines, and to improve existing lines to benefit passenger rail service.

(B) Forty percent (40%) of the money allocated by subparagraph (A) shall be allocated to commuter rail, to provide improved service that generally parallels congested segments of freeway corridors. Sixty percent (60%) of the money allocated by subparagraph (A) shall be allocated to intercity rail, with highest priority given to service that generally parallels congested freeway corridors. The calculation required by this paragraph shall be made after the expenditures required by subparagraph (C) have been made.

(C) (i) Notwithstanding the requirements of subparagraph (B), first priority for the expenditure of the money allocated pursuant to this paragraph (11) shall be an allocation of fifteen million dollars ($15,000,000) per year during the 2003–04 to 2010–11, inclusive, fiscal years to the Department of Transportation, for the following project to reduce traffic congestion on the Interstate 10 and other highway corridors, and to improve highway and rail passenger safety. The project shall include capital outlay for intercity passenger rail service from Los Angeles via Fullerton and Colton, to Palm Springs and Indio, including the following components: two trainsets each consisting of at least five cars and one locomotive; track and signal improvements to facilitate passenger rail trains serving Palm Springs through Indio; one passenger rail station at Ramon Road in the mid-Valley section of the Coachella Valley; one passenger rail station near Jackson Street in the east Valley section of the Coachella Valley in Indio; and improvements to the rail passenger station currently located in Palm Springs. Passenger rail stations shall include platforms, passenger stations, any necessary parking and tunnels, and other station amenities. First priority for expenditure shall be the development of passenger rail stations for this service. The city or Indian reservation within which each station is located may elect to manage the design and construction of these stations, subject to the design and financial approval of the Department of Transportation.

(ii) The Department of Transportation shall contract with a national rail passenger service provider to operate this intercity service and shall seek support for the operation of this service from all federal funding sources, including, but not limited to, the United States Department of Transportation.

(12) (A) Two percent (2%) to the Rural Transportation Account, to be allocated by the Controller directly to transit operators in counties with a population of less than 250,000 as follows: Fifty percent (50%) in the manner as provided for allocation of State Transit Assistance funds pursuant to Sections 99314 and 99314.3 of the Public Utilities Code, except that money shall be allocated directly to transit operators by the Controller, and fifty percent (50%) to
transportation planning agencies for allocation to transit operators in the same manner as provided for allocation of State Transit Assistance funds pursuant to Section 99313 of the Public Utilities Code, except that this money shall be allocated by the transportation planning agency only to transit operators and not for other purposes, to be used to improve the mobility of people living in rural areas who cannot drive motor vehicles.

(B) First priority for expenditure of the money in the account shall be to serve persons with disabilities and other health problems, seniors, students, and persons with low incomes who do not drive motor vehicles.

(13) Three percent (3%) to the Transit Oriented Development Account, to be allocated by the Secretary of the Business, Transportation, and Housing Agency on the basis of population to regional transportation planning agencies for capital outlay projects to develop public use facilities associated with rail and bus transit stations, in accordance with the competitive grant program established under Section 13984 of the Government Code. Sixty percent (60%) of the grants shall be made in County Group 2 and forty percent (40%) shall be made in County Group 1.

(14) One percent (1%) to the Bicycle and Pedestrian Safety Law Enforcement Account, to be allocated by the Controller as follows:

(A) Two-thirds to the Office of Criminal Justice Planning for grants to state and local law enforcement agencies to increase enforcement of speed limit and other traffic safety laws along heavily used pedestrian and bicycle routes. The highest priority for grants shall be for routes financed under the Safe Routes to School Program established under Section 2333.5 of the Streets and Highways Code. The Office of Criminal Justice Planning may adopt guidelines or regulations to implement this paragraph. The guidelines or regulations are not subject to the review and approval of the Office of Administrative Law or subject to any other requirement of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Sixty percent (60%) of the grants shall be made in County Group 2 and forty percent (40%) shall be made in County Group 1.

(B) One-third to the State Department of Education for grants to school districts to educate students and parents about how children can safely travel to school on foot and by bicycle along heavily used pedestrian and bicycle routes, in compliance with state and local traffic safety laws, ordinances, and programs. The highest priority for grants shall be for schools along routes financed under the Safe Routes to School Program established under Section 2333.5 of the Streets and Highways Code. The State Department of Education may adopt guidelines or regulations to implement this paragraph. The guidelines or regulations are not subject to the review and approval of the Office of Administrative Law or subject to any other requirement of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Sixty percent (60%) of the grants shall be made in County Group 2 and forty percent (40%) shall be made in County Group 1. School districts receiving money pursuant to this subparagraph shall consult with bicycling and law enforcement organizations about the implementation of these programs.

(15) (A) Eight percent (8%) to the Safe and Clean School Bus Account, for allocation by the State Department of Education for grants to any public school district, county office of education, state-operated school, or Joint Powers Authority for the purpose of purchasing or leasing new school buses, as defined in Section 39830 of the Education Code, in the following order of
priority: First priority shall be to replace currently certified California school buses manufactured prior to April 1, 1977, that do not meet current Federal Motor Vehicle Safety Standards. Second priority shall be to replace currently certified California school buses manufactured prior to January 1, 1987, that do not meet current pollution control standards. Third priority shall be to replace currently certified California school buses manufactured on or after January 1, 1987, and to increase fleet size. The State Department of Education shall develop and use a life cycle cost formula to determine the life cycle and cost of any new school buses leased or purchased under this program. Grants shall be made on a competitive basis, and the criteria for awarding grants shall be determined in consultation with the State Air Resources Board.

(B) Grants shall be made only for the purchase or lease of new buses that certify to the lowest achievable emissions levels for criteria pollutants. Public school districts, county offices of education, state-operated schools, or joint powers authorities with an average daily attendance of fewer than 500 students or located in a region certified by the California Energy Commission to be without fuels necessary to meet this requirement, may request relief from this requirement. Grants may include funding for refueling infrastructure.

(C) Public school districts, county offices of education, state-operated schools, or joint powers authorities shall pay ten percent (10%) of the cost of each new or leased bus up to the amount of ten thousand dollars ($10,000), but matching funds may be obtained from other agencies or applicable programs. Grant recipients shall present documented proof to the State Department of Education that buses built prior to 1977 and replaced under this program shall be destroyed and that school buses manufactured prior to January 1, 1987, and replaced under this program shall be removed from school bus service, and shall not be re-registered within the State of California. Any regulations adopted to implement this paragraph shall not be subject to the review or approval of the Office of Administrative Law and shall not be subject to any other requirement of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(16) Five percent (5%) to the Traffic Safety Improvement Account, for allocation by the California Transportation Commission to the Department of Transportation and the regional transportation planning agencies, for grants for projects that improve highway safety, to be allocated strictly on the basis of the potential of the project to reduce motorist, bicyclist, and pedestrian fatalities and injuries. First priority shall be given to projects that improve safety on the street and highway segments that have the highest rate of injuries and fatalities. The commission shall give priority to projects that are cost-effective. The Office of Traffic Safety shall advise the commission on the development of this program. The commission may adopt regulations or guidelines to implement this paragraph. Any regulations or guidelines adopted to implement this paragraph shall not be subject to the review or approval of the Office of Administrative Law and shall not be subject to any other requirement of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(17) Four percent (4%) to the Passenger Rail Improvement, Safety, and Modernization Account, to be allocated by the Controller pursuant to Chapter 7 (commencing with Section 99571) of Part 11 of Division 10 of the Public Utilities Code.
Money allocated as a grant or expended by a state agency under this section may be used as matching contributions to meet the requirements of any local, state, or federal transportation program.

If the recipient of money under this section fails to comply with the terms of the grant the agency making the grant may initiate an action to rescind the grant, and recover the money granted to the recipient, together with interest as computed on deficiency assessments.

Any money recovered under this subdivision shall be deposited in the account from which it was awarded and shall be available for appropriation for the purposes of the account from which it was awarded, and for no other purpose.

The initiation of an action pursuant to this subdivision does not preclude the imposition of any fine, forfeiture, or other penalty, or the undertaking of an administrative enforcement action pursuant to any other provision of law or regulation.

The Controller may transfer money from the fund for purposes expressly authorized in this section, and for the limited purposes set forth in Section 13985 of the Government Code and for investment in the Pooled Money Investment Account, and for no other purposes. Notwithstanding any other provision of law, money deposited in the Pooled Money Investment Account shall be available for immediate allocation or reallocation as provided in this section and may not be loaned to, or borrowed by, any other special fund or the General Fund. All interest earned from investment in the Pooled Money Investment Account shall be deposited in the fund and shall be used solely for the purposes of the fund and shall be allocated in accordance with this section.

In the event of damage to transportation facilities in California due to an earthquake occurring subsequent to the effective date of this measure, the Governor may utilize money from the fund to match federal funds to repair damage to those facilities from that earthquake for up to 12 months after the date of the earthquake. No funds allocated pursuant to this subdivision shall be used to supplant federal funds otherwise available in the absence of state financial relief.

No money in the fund may be used for debt service for general obligation bonds issued for transportation purposes pursuant to Chapter 17 (commencing with Section 2701) of Division 3 of the Streets and Highways Code, or bonds issued pursuant to Chapter 6 (commencing with Section 99690) of Part 11.5 of Division 10 of the Public Utilities Code, or for any existing or future general obligation bonds that the state authorizes or issues.

Notwithstanding any other provision of law, except as provided by this section and Section 13985 of the Government Code, money deposited into the fund shall not be transferred to or revert to the General Fund, but shall remain in the fund until allocated or reallocated as provided in this section.

Money in the fund shall not be used to replace money that was previously planned, programmed, or approved by a local or regional transportation entity or a city, county, or city and county for public transportation purposes.

Expenditures made pursuant to this section may include the costs directly related to the mitigation of a project financed pursuant to this section. No expenditure shall be made of any money made available pursuant to this section for any mitigation costs required by federal or state law or a local ordinance for any project that was not financed pursuant to this section.

Emissions reductions resulting from the part of a project financed under this section may not be used under any local, state, or federal emissions
averaging or trading program to offset or reduce any emissions reduction obligation that is in effect at the time the project is financed. Emissions reductions resulting from the part of a project financed under this section may not be banked under any local, state, or federal emissions banking program.

(l) All money allocated by this section shall be disbursed quickly and efficiently. All forms for applications for grants of money from state agencies shall be clear, simple, understandable, and as short as possible. All applications for grants shall be processed quickly and approved or rejected within 180 days of submission, and within 90 days on projects of less than five million dollars ($5,000,000). Unsuccessful applicants shall be given guidance as to how to change their applications to gain approval. This guidance may also be provided in a way that allows applicants to change pending applications before they are subjected to approval or rejection.

(m) Not later than December 31 of each year, each state and local agency receiving money from the fund shall publish a list of all projects approved under this section during the preceding fiscal year. The report shall include for each project a description of the project, the cost of the project, the amount of annual reductions in air emissions or water pollution estimated to result from the project, if any, and the effect of the project on traffic congestion, if any. The report shall be transmitted to the Governor and the Legislature, and shall be available to the public, including through the Internet.

(n) Any project that receives money from the fund shall by appropriate signage at the project site and through publicity inform the public about the use of money from the fund. The signage shall indicate that the source of the money was a voter-approved initiative, passed in 2002. The Secretary of the Business, Transportation, and Housing Agency shall develop regulations to implement this section. Those regulations shall not be subject to the review or approval of the Office of Administrative Law and shall not be subject to any other requirement of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(o) In implementing this section, each agency allocating money from the fund, and each agency receiving money from the fund shall give preference to contracting with the California Conservation Corps or community conservation corps, as defined in and certified pursuant to Section 14507.5 of the Public Resources Code, in undertaking work financed pursuant to this section to the extent that the corps have the capability of carrying out the programs to be implemented by the agencies.

(p) Every project undertaken pursuant to this section shall comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(q) Construction projects or works of improvement for facilities that are paid for in part or in whole using money from the fund shall be considered public works projects subject to Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code and shall be regulated by the Department of Industrial Relations in the same manner in which it carries out this responsibility under the Labor Code.

(r) Section 99683 of the Public Utilities Code applies to all rail and bus capital outlay projects undertaken pursuant to this section.

(s) Expenditures from the fund shall be subject to an annual audit by an independent seven member commission composed of five members appointed by the Governor, and one each appointed by the Speaker of the Assembly and
the Senate Committee on Rules. The commission shall elect its own chair. The members shall serve without pay, but may receive per diem as determined by the Department of Finance. The costs of the commission, including the costs of the audit, shall be paid with money in the fund by the Controller before allocation to the accounts in the fund, as specified in this section.

(t) The audit required under subdivision(s) shall include review of the administration of the program and expenses incurred, including, but not limited to, the initial start-up costs of the program. The independent commission created under subdivision(s) shall contract with a private auditing firm to conduct the audit. On completion of the audit, the commission shall immediately report the results to the Governor, the Legislature, and shall make the results available to the public, including through the Internet. Each state and local agency that administers any part of the program authorized under this section shall report to the Governor, the Legislature, and the public its response to the results and recommendations of the audit within 90 days of completion of the audit. If the audit recommends a reduction in the cost of administering the program, the agency shall reduce its administrative costs or provide a written explanation to the Governor and the Legislature explaining why the administrative expenses cannot be reduced.

(u) Pursuant to Section 8 of Article XVI of the California Constitution, funds in the Traffic Congestion Relief and Safe School Bus Trust Fund in the State Treasury, established under this section, shall be added to General Fund revenues otherwise considered in making the calculations required under Section 8 of Article XVI.

(v) Except as expressly authorized under this section, money may not be transferred between or among the accounts established under subdivision (b) or between or among the funds named in this section.

(w) Money made available by this section may not be used for projects that result in a decrease in the existing level of pedestrian and bicycle access or safety features along and across a street, road, railway, highway, or bridge.

(x) Money made available by this section may be used to supplement other money in order to complete a capital outlay project, or to operate a transportation system.

(y) The California Transportation Commission may adopt guidelines or regulations to implement any of the requirements and provisions that apply to the commission pursuant to this section. Any regulations adopted to implement this subdivision shall not be subject to the review or approval of the Office of Administrative Law and shall not be subject to any other requirement of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(z) If a project or program is eligible for funding from more than one account under this section, it may receive funding from more than one account for a single project or program.

(aa) (1) Unless otherwise specified in this section, notwithstanding Sections 13340, 16304, and 16304.1 of the Government Code, all money in the fund, the trust fund, and accounts created by this section allocated to any state agency by this section is continuously appropriated to that agency without regard to fiscal years, and all money in the fund, the trust fund, and accounts created by this section allocated to any state or local agencies shall remain available to those agencies from year to year until expended.
(2) Notwithstanding Sections 13340, 16304, and 16304.1 of the Government Code, all money transferred by the Controller to the accounts established by this section and the Transportation Impacts Mitigation Trust Fund is continuously appropriated without regard to fiscal years for the purposes of the accounts and the trust fund, and shall remain available for expenditure from the accounts and the trust fund to the agencies and nonprofit organizations eligible to receive money from the accounts and the trust fund from year to year until expended.

(bb) If a statute passed by the Legislature transfers any money from an account to any other account, fund, or other depository, directly or indirectly, within 90 days of the effective date of the statute the Controller shall transfer an amount equivalent to the amount of the transfer from the General Fund to the account. There is hereby appropriated from the General Fund an amount necessary to make any transfer required by this subdivision.

(cc) It is the intent of the voters that money provided by the State of California to cities, counties, and special districts not be reduced by the Legislature as a result of the initiative measure that added this section to the Revenue and Taxation Code.

(dd) No agency shall expend more than two percent (2%) of the money available to it pursuant to this section on the administration of that money.

(ee) For purposes of this section, County Group 1 and County Group 2 are those county groups as defined in Section 187 of the Streets and Highways Code.

(ff) In allocating money pursuant to this section that is distributed solely utilizing Section 187 of the Streets and Highways Code, state and regional agencies, including the Controller, granting the money shall further distribute the money so that each county having a population greater than 250,000 receives an amount that is within ten percent (10%) what it would receive if the money were distributed on a per capita basis.

(gg) Any statute that alters the flow of revenue governed by Section 7102 or this section in a manner different than the provisions of the initiative measure that added this section to the Revenue and Taxation Code shall be void and without force or effect. Any bill or statute that interferes with the intended operation of the provisions of the initiative measure that added this section to the Revenue and Taxation Code with respect to the flow of money or in any other way shall be void and without force or effect.

(hh) Money appropriated, expended, or transferred pursuant to this section shall not be deemed to be a transfer of funds for the purposes of Chapter 9 (commencing with Section 2780) of Division 3 of the Fish and Game Code.

(ii) For purposes of this section, commuter rail services include, but are not limited to, the Bay Area Rapid Transit, the Capitol Corridor, CalTrain, Altamont Commuter Express, Coaster, and Metrolink systems.

(jj) In the expenditure of capital outlay or operating funds received pursuant to this section, the Southern California Regional Rail Authority shall give first priority to additional service and facilities along Metrolink rail lines that parallel congested freeways, such as State Routes 91, 118, 60, and 14, U.S. 101, and Interstates 215, 10 and 5, as well to facilities that support such service.

SEC. 3. Section 13984 is added to the Government Code, to read:

13984. (a) For purposes of this section, the following terms shall have the following meanings:

(1) “Rail or bus transit” means any of the following: light rail (including trolley buses), commuter rail, heavy rail, or intercity rail; or exclusive bus transit
ways or bus transit lines with service no less than every 15 minutes during peak traffic congestion periods.

(2) “Public use facilities” means all of the following:

(A) Street, sidewalk, and pedestrian crosswalk improvements within one-third mile of a rail or bus transit line.

(B) Rail or bus transit station amenities, including, but not limited to, artwork, benches, pedestrian and bicycle overpasses and tunnels, accommodations in compliance with the Americans with Disabilities Act of 1990 (Public Law 101-336), elevators, escalators, and bicycle parking and motor vehicle parking structures that enable increased rail or bus transit station use and offer preferential parking to rail or bus transit users.

(C) Child care centers, libraries, community rooms, restrooms, and other public facilities and public spaces that serve or are accessible to rail or bus transit users.

(D) Acquisition of land to implement projects qualifying for grants under this section.

(E) Multi-modal facilities, including, but not limited to, infrastructure to accommodate connections to bus lines, other rail or bus transit lines, jitneys, taxis, tour buses, pedestrian facilities, and access routes used by bicyclists.

(F) Facilities to accommodate publicly owned low emission motor vehicles at rail or bus transit stations, including, but not limited to, recharging stations, secure parking, and storage facilities.

(G) Traffic light synchronization controllers and signal priority for public transit near rail or bus transit stations.

(H) The cost of relocation assistance required to implement any of the projects listed in this subdivision, up to ten percent (10%) of the total cost of the project.

(I) Remediation of contaminated lands to implement any of the projects listed in this subdivision, if there is, at least in part, no party responsible for remediation or the state is itself a responsible party.

(3) “Project” means a mixed-use housing and business development that is within one-third mile of a rail stop or bus transit stop that includes at least two of the following elements:

(A) Housing.

(B) Retail.

(C) Office space.

(b) The purpose of this section is to pay for public use facilities in order to improve the financial feasibility of private development projects located at rail or bus transit stations serving housing and employment centers, and thereby to increase rail or bus transit use.

(c) (1) The secretary shall develop a program for implementation by regional transportation planning agencies to develop public use facilities associated with transit stations as part of proposed projects that will increase rail or bus transit ridership in a cost-effective manner.

(2) A project shall be given preference under this section if it meets any of the following criteria:

(A) The project has received a density bonus from a local land use agency.

(B) The project includes a parking facility that is shared by rail or bus transit users and users of the proposed project. Higher priority shall be given to proposals that include paid parking.
(C) The project has reduced parking requirements due to the increased use of rail or bus transit resulting from close association with a rail or bus transit station. The parking requirements shall be at least thirty percent (30%) below the zoning in force for the six months prior to submittal of the grant application.

(3) Each application for a grant from a local public agency (including but not limited to cities, counties, cities and counties, transportation agencies, redevelopment agencies, and housing authorities) shall be accompanied by all of the following:

(A) A development plan for the rail or bus transit station and adjacent project, including, but not limited to, a description of the involvement of private developers willing to implement the development plan.

(B) A letter from the owner of the rail or bus transit station indicating a willingness to cooperate in implementation of the proposed project.

(C) Station area zoning and densities allowed at the rail or bus transit station and the immediately surrounding area. Zoning and densities shall be at a level that will promote cost-effective development.

(d) Each public agency receiving a grant for a project that includes housing pursuant to this section shall assure that not less than twenty percent (20%) of the money is for projects that dedicate at least twenty-five percent (25%) of their units for housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code. Highest priority shall be given to grant applications that include a commitment for matching contributions for local agency programs that provide incentives to construct this and other types of housing.

(e) At least fifty percent (50%) of the money available pursuant to this section shall be expended for housing projects that meet the other requirements of this section.

(f) The secretary shall adopt regulations to implement this section, including a definition of “peak traffic congestion period.” Those regulations shall not be subject to review or approval of the Office of Administrative Law or subject to any other requirement of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 4. Section 13985 is added to the Government Code, to read:

13985. (a) The money in the Traffic Congestion Relief and Safe School Bus Trust Fund, which is created in the State Treasury by Section 7105 of the Revenue and Taxation Code, shall be transferred to the General Fund by the Controller if the aggregate amount of General Fund revenues for the current fiscal year, as projected by the Governor in a report to the Legislature in May of the current fiscal year, is less than the aggregate amount of General Fund revenues for the previous fiscal year, as specified in the budget submitted by the Governor pursuant to Section 12 of Article IV of the California Constitution in the current fiscal year. In the event that a transfer of money to the General Fund pursuant to this subdivision is necessary, the Department of Finance shall determine the amount to be transferred to the General Fund, and shall notify the Controller in writing as to the amount, the timing of the transfer, and the applicable time period affected by the transfer.

(b) The Controller shall reduce the total amount of money transferred to the Traffic Congestion Relief and Safe School Bus Trust Fund by the Controller in any fiscal year if the aggregate amount of General Fund revenues for the current fiscal year, as projected by the Governor in a report to the Legislature in May of the current fiscal year is not projected to increase compared to the previous
fiscal year in an amount equal to the amount of money to be transferred to the fund in accordance with this section. Reductions in money transferred to the fund due to operation of this subdivision shall be allocated in proportion to the percentage of money in the fund allocated to each account in subdivision (b) of Section 7105 of the Revenue and Taxation Code and the Transportation Impacts Mitigation Trust Fund. In the event that a reduction of the money to be transferred to the Traffic Congestion Relief and Safe School Bus Trust Fund from the General Fund by the Controller is necessary pursuant to this subdivision, the Department of Finance shall determine the amount of the reduction and shall notify the Controller in writing as to the amount, the timing of the transfer, and the applicable time period affected by the transfer.

(c) Money in the Traffic Congestion Relief and Safe School Bus Trust Fund in the State Treasury may be allocated only in accordance with Section 7105 of the Revenue and Taxation Code, this section, Sections 164.57, 164.58, and 894.5 of the Streets and Highways Code, and Chapter 7 (commencing with Section 99571) of Part 11 of Division 10 of the Public Utilities Code.

(d) In a fiscal year in which a particular project allocated money by paragraph (1), (3), (5), (6), or (11) of subdivision (b) of Section 7105 of the Revenue and Taxation Code for a limited number of years does not receive all or part of its allocation due to the operation of this section, each project that did not receive its full allocation in that fiscal year shall receive a replacement allocation in subsequent fiscal years for each fiscal year it did not receive an allocation. The replacement allocation shall be made at the end of the period specified in Section 7105 of the Revenue and Taxation Code that allocations are made to the particular project. The replacement allocations shall be in the same amount that would have otherwise been allocated. Replacement allocations shall be made in as many sequential fiscal years as are needed to compensate for the allocations that were not made during the fiscal years in which the allocation otherwise would have been made. The intent of this subdivision is to be sure that each project specified in paragraphs (1), (3), (5), (6), or (11) of subdivision (b) of Section 7105 of the Revenue and Taxation Code receives all the funds it would have received if subdivision (a) and (b) of this section had not been in operation.

SEC. 5. Section 14556.40 of the Government Code is amended to read:

14556.40. (a) The following projects are eligible for grants from the fund for the purposes and amounts specified:

(1) BART to San Jose; extend BART from Fremont to Downtown San Jose in Santa Clara and Alameda Counties. Seven hundred twenty-five million dollars ($725,000,000). The lead applicant is the Santa Clara Valley Transportation Authority.

(2) Fremont-South Bay Commuter Rail; acquire rail line and start commuter-rail service between Fremont and San Jose in Santa Clara and Alameda Counties. BART to San Jose; extend BART from Fremont to Downtown San Jose in Santa Clara and Alameda Counties. Thirty-five million dollars ($35,000,000). The lead applicant is the Santa Clara Valley Transportation Authority.

(3) Route 101; widen freeway from four to eight lanes south of San Jose, Bernal Road to Burnett Avenue in Santa Clara County. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the Santa Clara Valley Transportation Authority.

(4) Route 680; add northbound HOV lane over Sunol Grade, Milpitas to Route 84 in Santa Clara and Alameda Counties. Sixty million dollars ($60,000,000).
The lead applicant is the department or the Alameda County Congestion Management Agency.

(5) Route 101; add northbound lane to freeway through San Jose, Route 87 to Trimble Road in Santa Clara County. Five million dollars ($5,000,000). The lead applicant is the department or the Santa Clara Valley Transportation Authority.

(6) Route 262; major investment study for cross connector freeway, Route 680 to Route 880 near Warm Springs in Santa Clara County. One million dollars ($1,000,000). The lead applicant is the department or the Santa Clara Valley Transportation Authority.

(7) CalTrain; expand service to Gilroy; improve parking, stations, and platforms along UP RR line in Santa Clara County. Fifty-five million dollars ($55,000,000). The lead applicant is Santa Clara Valley Transportation Authority.

(8) Route 880; reconstruct Coleman Avenue Interchange near San Jose Airport in Santa Clara County. Five million dollars ($5,000,000). The lead applicant is the department or the Santa Clara Valley Transportation Authority.

(9) Capitol Corridor; improve intercity rail line between Oakland and San Jose, and at Jack London Square and Emeryville stations in Alameda and Santa Clara Counties. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the Capitol Corridor Joint Powers Authority.

(10) Regional Express Bus; acquire low-emission buses for new express service on HOV lanes regionwide. In nine counties. Forty million dollars ($40,000,000). The lead applicant is the Metropolitan Transportation Commission.

(11) San Francisco Bay Southern Crossing; complete feasibility and financial studies for new San Francisco Bay crossing (new bridge, HOV/transit bridge, terminal connection, or second BART tube) in Alameda and San Francisco or San Mateo Counties. Five million dollars ($5,000,000). The lead applicant is the department or the Metropolitan Transportation Commission.

(12) Bay Area Transit Connectivity; complete studies of, and fund related improvements for, the I-580 Livermore Corridor; the Hercules Rail Station and related improvements, West Contra Costa County and Route 4 Corridors in Alameda and Contra Costa Counties. Seventeen million dollars ($17,000,000). Of the amount specified, seven million dollars ($7,000,000) shall be made available for the Route 4 Corridor study and improvements, seven million dollars ($7,000,000) shall be made available for the I-580 Corridor study and improvements, and three million dollars ($3,000,000) shall be made available for the Hercules Rail Station study and improvements. The lead applicant for the Hercules Rail Station and related improvements in west Contra Costa County is the Contra Costa County Transportation Authority. The lead applicants, for the I-580 Livermore Study and improvements are the Alameda County Congestion Management Authority and the San Francisco Bay Area Rapid Transit District. The lead applicants for the Route 4 Corridor study and improvements are the Contra Costa County Transportation Authority and the San Francisco Bay Area Rapid Transit District.

(13) CalTrain Peninsula Corridor; acquire rolling stock, add passing tracks, and construct pedestrian access structure at stations between San Francisco and San Jose in San Francisco, San Mateo, and Santa Clara Counties. One hundred twenty-seven million dollars ($127,000,000). The lead applicant is the Peninsula Joint Powers Board.

(14) CalTrain; extension to Salinas in Monterey County. Twenty million dollars ($20,000,000). The lead applicant is the Transportation Agency for Monterey County.
(15) Route 24; Caldecott Tunnel; add fourth bore tunnel with additional lanes in Alameda and Contra Costa Counties. Twenty million dollars ($20,000,000). The lead applicant is the department or the Metropolitan Transportation Commission.

(16) Route 4; construct one or more phases of improvements to widen freeway to eight lanes from Railroad through Loveridge Road, including two high-occupancy vehicle lanes, and to six or more lanes from east of Loveridge Road through Hillcrest. Thirty-nine million dollars ($39,000,000). The lead applicant is the Contra Costa Transportation Authority.

(17) Route 101; add reversible HOV lane through San Rafael, Sir Francis Drake Boulevard to North San Pedro Road in Marin County. Fifteen million dollars ($15,000,000). The lead applicant is the department or the Marin Congestion Management Agency.

(18) Route 101; widen eight miles of freeway to six lanes, Novato to Petaluma (Novato Narrows) in Marin and Sonoma Counties. Twenty-one million dollars ($21,000,000). The lead applicant is the department or the Sonoma County Transportation Authority.

(19) Bay Area Water Transit Authority; establish a regional water transit system beginning with Treasure Island in the City and County of San Francisco. Two million dollars ($2,000,000). The lead applicant is the Bay Area Water Transit Authority.

(20) San Francisco Muni Third Street Light Rail; extend Third Street line to Chinatown (tunnel) in the City and County of San Francisco. One hundred forty million dollars ($140,000,000). The lead applicant is the San Francisco Municipal Transportation Agency.

(21) San Francisco Muni Ocean Avenue Light Rail; reconstruct Ocean Avenue light rail line to Route 1 near California State University, San Francisco, in the City and County of San Francisco. Seven million dollars ($7,000,000). The lead applicant is the San Francisco Municipal Transportation Agency.

(22) Route 101; environmental study for reconstruction of Doyle Drive, from Lombard St./Richardson Avenue to Route 1 Interchange in City and County of San Francisco. Fifteen million dollars ($15,000,000). The lead applicant is the department or the San Francisco County Transportation Authority.

(23) CalTrain Peninsula Corridor; complete grade separations at Poplar Avenue (San Mateo), 25th Avenue or vicinity (San Mateo), and Linden Avenue (South San Francisco) in San Mateo County. Fifteen million dollars ($15,000,000). The lead applicant is the San Mateo County Transportation Authority.

(24) Vallejo Baylink Ferry; acquire low-emission ferryboats to expand Baylink Vallejo-San Francisco service in Solano County. Five million dollars ($5,000,000). The lead applicant is the City of Vallejo.

(25) I-80/I-680/Route 12 Interchange in Fairfield in Solano County; 12 interchange complex in seven stages (Stage 1). Thirteen million dollars ($13,000,000). The lead applicant is the department or the Solano Transportation Authority.

(26) ACE Commuter Rail; add siding on UPRR line in Livermore Valley in Alameda County. One million dollars ($1,000,000). The lead applicant is the Alameda County Congestion Management Authority.

(27) Vasco Road Safety and Transit Enhancement Project in Alameda and Contra Costa Counties. Eleven million dollars ($11,000,000). The lead applicant is Alameda County Congestion Management Authority.
(28) Parking Structure at Transit Village at Richmond BART Station in Contra Costa County. Five million dollars ($5,000,000). The lead applicant is the City of Richmond.

(29) AC Transit; buy two fuel cell buses and fueling facility for demonstration project in Alameda and Contra Costa Counties. Eight million dollars ($8,000,000). The lead applicant is the Alameda Contra Costa Transit District.

(30) Implementation of commuter rail passenger service from Cloverdale south to San Rafael and Larkspur in Marin and Sonoma Counties. Thirty-seven million dollars ($37,000,000). The lead applicant is the Sonoma-Marin Area Transit Authority.

(31) Route 580; construct eastbound and westbound HOV lanes from Tassajara Road/Santa Rita Road to Vasco Road in Alameda County. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the Alameda County Congestion Management Authority.

(32) North Coast Railroad; repair and upgrade track to meet Class II (freight) standards in Napa, Sonoma, Marin, Mendocino and Humboldt Counties. Sixty million dollars ($60,000,000). The lead applicant is the North Coast Rail Authority. Except for the amounts specified in paragraph (1) of subdivision (a) and subdivision (b) of Section 14456.50, no part of the specified amount may be made available to the authority until it has made a full accounting to the commission demonstrating that the expenditure of funds provided to the authority in the Budget Act of 2000 (Chapter 52 of the Statutes of 2000) was consistent with the limitations placed on those funds in that Budget Act.

(33) Bus Transit; acquire low-emission buses for Los Angeles County MTA bus transit service. One hundred fifty million dollars ($150,000,000). The lead applicant is the Los Angeles County Metropolitan Transportation Authority.

(34) Blue Line to Los Angeles; new rail line Pasadena to Los Angeles in Los Angeles County. Forty million dollars ($40,000,000). The lead applicant is the Pasadena Metro Blue Line Construction Authority.

(35) Pacific Surfliner; triple track intercity rail line within Los Angeles County and add run-through-tracks through Los Angeles Union Station in Los Angeles County. One hundred million dollars ($100,000,000). The lead applicant is the department.

(36) Los Angeles Eastside Transit Extension; build new light rail line in East Los Angeles, from Union Station to Atlantic via 1st Street to Lorena in Los Angeles County. Two hundred thirty-six million dollars ($236,000,000). The lead applicant is the Los Angeles County Metropolitan Transportation Authority.

(37) Los Angeles Mid-City Transit Improvements; build Bus Rapid Transit system or Light Rail Transit in Mid-City/Westside/Exposition Corridors in Los Angeles County. Two hundred fifty-six million dollars ($256,000,000). The lead applicant is the Los Angeles County Metropolitan Transportation Authority.

(38) Los Angeles-San Fernando Valley Transit Extension; (A) build an East-West Bus Rapid Transit system in the Burbank-Chandler corridor, from North Hollywood to Warner Center. One hundred forty-five million dollars ($145,000,000). (B) Build a North-South corridor bus transit project that interfaces with the foregoing East-West Burbank-Chandler Corridor project and with the Ventura Boulevard Rapid Bus project. One hundred million dollars ($100,000,000). The lead applicant for both extension projects is the Los Angeles County Metropolitan Transportation Authority.

(39) Route 405; add northbound HOV lane over Sepulveda Pass, Route 10 to Route 101 in Los Angeles County. Ninety million dollars ($90,000,000).
The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.

(40) Route 10; add HOV lanes on San Bernardino Freeway over Kellogg Hill, near Pomona, Route 605 to Route 57 in Los Angeles County. Ninety million dollars ($90,000,000). The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.

(41) Route 5; add HOV lanes on Golden State Freeway through San Fernando Valley, Route 170 (Hollywood Freeway) to Route 14 (Antelope Valley Freeway) in Los Angeles County. Fifty million dollars ($50,000,000). The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.

(42) Route 5; widen Santa Ana Freeway to 10 lanes (two HOV + two mixed flow), Orange County line to Route 710, with related major arterial improvements, in Los Angeles County. One hundred twenty-five million dollars ($125,000,000). The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.

(43) Route 5; improve Carmenita Road Interchange in Norwalk in Los Angeles County. Seventy-one million dollars ($71,000,000). The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.

(44) Route 47 (Terminal Island Freeway); construct interchange at Ocean Boulevard Overpass in the City of Long Beach in Los Angeles County. Eighteen million four hundred thousand dollars ($18,400,000). The lead applicant is the Port of Long Beach.

(45) Route 710; complete Gateway Corridor study, Los Angeles/Long Beach ports to Route 5 in Los Angeles County. Two million dollars ($2,000,000). The lead applicant is the department.

(46) Route 1; reconstruct intersection at Route 107 in Torrance in Los Angeles County. Two million dollars ($2,000,000). The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.

(47) Route 101; California Street off-ramp in Ventura County. Fifteen million dollars ($15,000,000). The lead applicant is the department or the City of San Buenaventura.

(48) Route 101; corridor analysis and PSR to improve corridor from Route 170 (North Hollywood Freeway) to Route 23 in Thousand Oaks (Ventura County) in Los Angeles and Ventura Counties. Three million dollars ($3,000,000). The lead applicant is the department.

(49) Hollywood Intermodal Transportation Center; intermodal facility at Highland Avenue and Hawthorne Avenue in the City of Los Angeles. Ten million dollars ($10,000,000). The lead applicant is the City of Los Angeles.

(50) Route 71; complete three miles of six-lane freeway through Pomona, from Route 10 to Route 60 in Los Angeles County. Thirty million dollars ($30,000,000). The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.

(51) Route 101/405; add auxiliary lane and widen ramp through freeway interchange in Sherman Oaks in Los Angeles County. Twenty-one million dollars ($21,000,000). The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.

(52) Route 405; add HOV and auxiliary lanes for 1 mile in West Los Angeles, from Waterford Avenue to Route 10 in Los Angeles County. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the Los Angeles County Metropolitan Transportation Authority.
(53) Automated Signal Corridors (ATSAC); improve 479 automated signals in Victory/Ventura Corridor, and add 76 new automated signals in Sepulveda Boulevard and Route 118 Corridors in Los Angeles County. Sixteen million dollars ($16,000,000). The lead applicant is the City of Los Angeles.

(54) Alameda Corridor East; build grade separations on Burlington Northern-Santa Fe and Union Pacific Railroad lines, downtown Los Angeles to Los Angeles County line in Los Angeles County. One hundred fifty million dollars ($150,000,000). The lead applicant is the San Gabriel Valley Council of Governments.

(55) Alameda Corridor East; build grade separations on Burlington Northern-Santa Fe and Union Pacific Railroad lines, with rail-to-rail separation at Colton through San Bernardino County. Ninety-five million dollars ($95,000,000). The lead applicant is the San Bernardino Associated Governments.

(56) Metrolink; track and signal improvements on Metrolink; San Bernardino line in San Bernardino County. Fifteen million dollars ($15,000,000). The lead applicant is the Southern California Regional Rail Authority.

(57) Route 215; add HOV lanes through downtown San Bernardino, Route 10 to Route 30 in San Bernardino County. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the San Bernardino County Transportation Commission.

(58) Route 10; widen freeway to eight lanes through Redlands, Route 30 to Ford Street in San Bernardino County. Ten million dollars ($10,000,000). The lead applicant is the department or the San Bernardino County Transportation Commission.

(59) Route 10; Live Oak Canyon Interchange, including, but not limited to, the 14th Street Bridge over Wilson Creek, in the City of Yucaipa in San Bernardino County. Eleven million dollars ($11,000,000). The lead applicant is the department or the San Bernardino County Transportation Commission.

(60) Route 15; southbound truck climbing lane at two locations in San Bernardino County. Ten million dollars ($10,000,000). The lead applicant is the department or the San Bernardino County Transportation Commission.

(61) Route 10; reconstruct Apache Trail Interchange east of Banning in Riverside County. Thirty million dollars ($30,000,000). The lead applicant is the department or the Riverside County Transportation Commission.

(62) Route 91; add HOV lanes through downtown Riverside, Mary Street to Route 60/215 junction in Riverside County. Forty million dollars ($40,000,000). The lead applicant is the department or the Riverside County Transportation Commission.

(63) Route 60; add seven miles of HOV lanes west of Riverside, Route 15 to Valley Way in Riverside County. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the Riverside County Transportation Commission.

(64) Route 91; improve the Green River Interchange and add auxiliary lane and connector ramp east of the Green River Interchange to northbound Route 71 in Riverside County. Five million dollars ($5,000,000). The lead applicant is the department or the Riverside County Transportation Commission.

(70) Route 22; add HOV lanes on Garden Grove Freeway, Route I-405 to Route 55 in Orange County. Two hundred six million five hundred thousand dollars ($206,500,000). The lead applicant is the department or the Orange County Transportation Authority.
(73) Alameda Corridor East; (Orangethorpe Corridor) build grade separations on Burlington Northern-Santa Fe line, Los Angeles County line through Santa Ana Canyon in Orange County. Twenty-eight million dollars ($28,000,000). The lead applicant is the Orange County Transportation Authority.

(74) Pacific Surfliner; double track intercity rail line within San Diego County, add maintenance yard in San Diego County. Forty-seven million dollars ($47,000,000). The lead applicant is the department or North Coast Transit District.

(75) San Diego Transit Buses; acquire about 85 low-emission buses for San Diego transit service in San Diego County. Thirty million dollars ($30,000,000). The lead applicant is the department or the San Diego Metropolitan Transit Development Board.

(76) Coaster Commuter Rail; acquire one new train set to expand commuter rail in San Diego County. Fourteen million dollars ($14,000,000). The lead applicant is North County Transit District.

(77) Route 94; complete environmental studies to add capacity to Route 94 corridor, downtown San Diego to Route 125 in Lemon Grove in San Diego County. Twenty million dollars ($20,000,000). The lead applicant is the department or San Diego Association of Governments.

(78) East Village access; improve access to light rail from new in-town East Village development in San Diego County. Fifteen million dollars ($15,000,000). The lead applicant is the San Diego Metropolitan Transit Development Board.

(79) North County Light Rail; build new 20-mile light rail line from Oceanside to Escondido in San Diego County. Eighty million dollars ($80,000,000). The lead applicant is North County Transit District.

(80) Mid-Coast Light Rail; extend Old Town light rail line 6 miles to Balboa Avenue in San Diego County. Ten million dollars ($10,000,000). The lead applicant is the San Diego Metropolitan Transit Development Board.

(81) San Diego Ferry; acquire low-emission high-speed ferryboat for new off-coast service between San Diego and Oceanside in San Diego County. Five million dollars ($5,000,000). The lead applicant is the Port of San Diego.

(82) Routes 5/805; reconstruct and widen freeway interchange, Genesee Avenue to Del Mar Heights Road in San Diego County. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the San Diego Association of Governments.

(83) Route 15; add high-tech managed lane on I-15 freeway north of San Diego (Stage 1) from Route 163 to Route 78 in San Diego County. Seventy million dollars ($70,000,000). The lead applicant is the department or the San Diego Association of Governments.

(84) Route 52; build four miles of new six-lane freeway to Santee, Mission Gorge to Route 67 in San Diego County. Forty-five million dollars ($45,000,000). The lead applicant is the department or the San Diego Association of Governments.

(85) Route 56; construct approximately five miles of new freeway alignment between I-5 and I-15 from Carmel Valley to Rancho Penasquitos in the City of San Diego in San Diego County. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the San Diego Association of Governments.

(86) Route 905; build new six-lane freeway on Otay Mesa, Route 805 to Mexico Port of Entry in San Diego County. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the San Diego Association of Governments.
(87) Routes 94/125; build two new freeway connector ramps at Route 94/125 in Lemon Grove in San Diego County. Sixty million dollars ($60,000,000). The lead applicant is the department or the San Diego Association of Governments.

(88) Route 5; realign freeway at Virginia Avenue, approaching San Ysidro Port of Entry to Mexico in San Diego County. Ten million dollars ($10,000,000). The lead applicant is the department or the San Diego Association of Governments.

(89) Route 99; improve Shaw Avenue Interchange in northern Fresno in Fresno County. Five million dollars ($5,000,000). The lead applicant is the department or the Council of Fresno County Governments.

(90) Route 99; widen freeway to six lanes, Kingsburg to Selma in Fresno County. Twenty million dollars ($20,000,000). The lead applicant is the department or the Council of Fresno County Governments.

(91) Route 180; build new expressway east of Clovis, Clovis Avenue to Temperance Avenue in Fresno County. Twenty million dollars ($20,000,000). The lead applicant is the department or the Council of Fresno County Governments.

(92) San Joaquin Corridor; improve track and signals along San Joaquin intercity rail line near Hanford in Kings County. Ten million dollars ($10,000,000). The lead applicant is the department.

(93) Route 180; complete environmental studies to extend Route 180 westward from Mendota to I-5 in Fresno County. Seven million dollars ($7,000,000). The lead applicant is the department or the Council of Fresno County Governments.

(94) Route 43; widen to four-lane expressway from Kings County line to Route 99 in Selma in Fresno County. Five million dollars ($5,000,000). The lead applicant is the department or the Council of Fresno County Governments.

(95) Route 41; add auxiliary lane/operational improvements and improve ramps at Friant Road Interchange in Fresno in Fresno County. Ten million dollars ($10,000,000). The lead applicant is the department or the Council of Fresno County Governments.

(96) Friant Road; widen to four lanes from Copper Avenue to Road 206 in Fresno County. Ten million dollars ($10,000,000). The lead applicant is the County of Fresno.

(97) Operational improvements on Shaw Avenue, Chestnut Avenue, Willow Avenue, and Barstow Avenue near California State University at Fresno in Fresno County. Ten million dollars ($10,000,000). The lead applicant is the California State University at Fresno. Of the amount authorized under this paragraph, the sum of two million dollars ($2,000,000) shall be transferred to the California State University at Fresno for the purposes of funding preliminary plans, working drawings, or both of those, and related program management costs for the Fresno Events Center.

(98) Peach Avenue; widen to four-lane arterial and add pedestrian overcrossings for three schools in Fresno County. Ten million dollars ($10,000,000). The lead applicant is the City of Fresno.

(99) San Joaquin Corridor; improve track and signals along San Joaquin intercity rail line in seven counties. Fifteen million dollars ($15,000,000). The lead applicant is the department.

(100) San Joaquin Valley Emergency Clean Air Attainment Program; incentives for the reduction of emissions from heavy-duty diesel engines operating within the eight-county San Joaquin Valley region. Twenty-five million dollars ($25,000,000). The lead applicant is the San Joaquin Valley Unified Air Pollution Control District.
(101) Santa Cruz Metropolitan Transit District bus fleet; acquisition of low-emission buses. Three million dollars ($3,000,000). The lead applicant is the Santa Cruz Metropolitan Transit District.

(102) Route 101 access; State Street smart corridor Advanced Traffic Corridor System (ATSC) technology in Santa Barbara County. One million three hundred thousand dollars ($1,300,000). The lead applicant is the City of Santa Barbara.

(103) Route 99; improve interchange at Seventh Standard Road, north of Bakersfield in Kern County. Eight million dollars ($8,000,000). The lead applicant is the department or Kern Council of Governments.

(104) Route 99; build seven miles of new six-lane freeway south of Merced, Buchanan Hollow Road to Healey Road in Merced County. Five million dollars ($5,000,000). The lead applicant is the department or the Merced County Association of Governments.

(105) Route 99; build two miles of new six-lane freeway, Madera County line to Buchanan Hollow Road in Merced County. Five million dollars ($5,000,000). The lead applicant is the department or the Merced County Association of Governments.

(106) Campus Parkway; build new arterial in Merced County from Route 99 to Bellevue Road. Twenty-three million dollars ($23,000,000). The lead applicant is the County of Merced.

(107) Route 205; widen freeway to six lanes, Tracy to I-5 in San Joaquin County. Twenty-five million dollars ($25,000,000). The lead applicant is the department or the San Joaquin Council of Governments.

(108) Route 5; add northbound lane to freeway through Mossdale “Y”, Route 205 to Route 120 in San Joaquin County. Seven million dollars ($7,000,000). The lead applicant is the department or the San Joaquin Council of Governments.

(109) Route 132; build four miles of new four-lane expressway in Modesto from Dakota Avenue to Route 99 and improve Route 99 Interchange in Stanislaus County. Twelve million dollars ($12,000,000). The lead applicant is the department or the Stanislaus Council of Governments.

(110) Route 132; build 3.5 miles of new four-lane expressway from Route 33 to the San Joaquin county line in Stanislaus and San Joaquin Counties. Two million dollars ($2,000,000). The lead applicant is the department or the Stanislaus Council of Governments.

(111) Route 198; build 10 miles of new four-lane expressway from Route 99 to Hanford in Kings and Tulare Counties. Fourteen million dollars ($14,000,000). The lead applicant is the department or the Kings County Association of Governments.

(112) Jersey Avenue; widen from 17th Street to 18th Street in Kings County. One million five hundred thousand dollars ($1,500,000). The lead applicant is Kings County.

(113) Route 46; widen to four lanes for 33 miles from Route 5 to San Luis Obispo County line in Kern County. Thirty million dollars ($30,000,000). The lead applicant is the department or the Kern Council of Governments.

(114) Route 65; add four passing lanes, intersection improvement, and conduct environmental studies for ultimate widening to four lanes from Route 99 in Bakersfield to Tulare County line in Kern County. Twelve million dollars ($12,000,000). The lead applicant is the department or the Kern Council of Governments.
(115) South Line Light Rail; extend South Line three miles towards Elk Grove, from Meadowview Road to Calvine Road in Sacramento County. Seventy million dollars ($70,000,000). The lead applicant is the Sacramento Regional Transit District.

(116) Route 80 Light Rail Corridor; double-track Route 80 light rail line for express service in Sacramento County. Twenty-five million dollars ($25,000,000). The lead applicant is the Sacramento Regional Transit District.

(117) Folsom Light Rail; extend light rail tracks from 7th Street and K Street to the Amtrak Depot in downtown Sacramento, and extend Folsom light rail from Mather Field Station to downtown Folsom. Add a new vehicle storage and maintenance facility in the area between the Sunrise Boulevard and Hazel Avenue Stations in Sacramento County. Twenty million dollars ($20,000,000). The lead applicant is the Sacramento Regional Transit District.

(118) Sacramento Emergency Clean Air/Transportation Plan (SECAT); incentive for the reduction of emissions from heavy-duty diesel engines operating within the Sacramento region. Fifty million dollars ($50,000,000). The lead applicant is the Sacramento Area Council of Governments.

(119) Convert Sacramento Regional Transit bus fleet to low emission and provide Yolo bus service by the Yolo County Transportation District; acquire approximately 50 replacement low-emission buses for service in Sacramento and Yolo Counties. Nineteen million dollars ($19,000,000). The lead applicants are the Sacramento Regional Transit District, the Sacramento Area Council of Governments, and the Yolo Bus Authority.

(121) Metropolitan Bakersfield System Study; to reduce congestion in the City of Bakersfield. Three hundred fifty thousand dollars ($350,000). The lead applicant is the Kern County Council of Governments.

(122) Route 65; widening project from 7th Standard Road to Route 190 in Porterville. Three million five hundred thousand dollars ($3,500,000). The lead applicant is the County of Tulare.

(123) Oceanside Transit Center; parking structure. One million five hundred thousand dollars ($1,500,000). The lead applicant is the City of Oceanside.

(126) Route 50/Watt Avenue Interchange; widening of overcrossing and modifications to interchange. Seven million dollars ($7,000,000). The lead applicant is the County of Sacramento.

(127) Route 85/Route 87; interchange completion; addition of two direct connectors for southbound Route 85 to northbound Route 87 and southbound Route 87 to northbound Route 85. Three million five hundred thousand dollars ($3,500,000). The lead applicant is the City of San Jose.

(128) Airport Road; reconstruction and intersection improvement project. Three million dollars ($3,000,000). The lead applicant is the County of Shasta.

(129) Route 62; traffic and pedestrian safety and utility undergrounding project in right-of-way of Route 62. Three million two hundred thousand dollars ($3,200,000). The lead applicant is the Town of Yucca Valley.

(133) Feasibility studies for grade separation projects for Union Pacific Railroad at Elk Grove Boulevard and Bond Road. One hundred fifty thousand dollars ($150,000). The lead applicant is the City of Elk Grove.

(134) Route 50/Sunrise Boulevard; interchange modifications. Three million dollars ($3,000,000). The lead applicant is the County of Sacramento.

(135) Route 99/Sheldon Road; interchange project; reconstruction and expansion. Three million dollars ($3,000,000). The lead applicant is the County of Sacramento.
(138) Cross Valley Rail; upgrade track from Visalia to Huron. Four million dollars ($4,000,000). The lead applicant is the Cross Valley Rail Corridor Joint Powers Authority.

(139) Balboa Park BART Station; phase I expansion. Six million dollars ($6,000,000). The lead applicant is the San Francisco Bay Area Rapid Transit District.

(140) City of Goshen; overpass for Route 99. One million five hundred thousand dollars ($1,500,000). The lead applicant is the department.

(141) Union City; pedestrian bridge over Union Pacific rail lines. Two million dollars ($2,000,000). The lead applicant is the City of Union City.

(142) West Hollywood; repair, maintenance, and mitigation of Santa Monica Boulevard. Two million dollars ($2,000,000). The lead applicant is the City of West Hollywood.

(144) Seismic retrofit of the national landmark Golden Gate Bridge. Five million dollars ($5,000,000). The lead applicant is the Golden Gate Bridge, Highway and Transportation District.

(145) Construction of a new siding in Sun Valley between Sheldon Street and Sunland Boulevard. Six million five hundred thousand dollars ($6,500,000). The lead applicant is the Southern California Regional Rail Authority.

(146) Construction of Palm Drive Interchange. Ten million dollars ($10,000,000). The lead applicant is the Coachella Valley Association of Governments.

(148) Route 98; widening of 8 miles between Route 111 and Route 7 from 2 lanes to 4 lanes. Ten million dollars ($10,000,000). The lead applicant is the department.

(149) Purchase of low-emission buses for express service on Route 17. Three million seven hundred fifty thousand dollars ($3,750,000). The lead applicant is the Santa Cruz Metropolitan Transit District.

(150) Renovation or rehabilitation of Santa Cruz Metro Center. One million dollars ($1,000,000). The lead applicant is the Santa Cruz Metropolitan Transit District.

(151) Purchase of 5 alternative fuel buses for the Pasadena Area Rapid Transit System. One million one hundred thousand dollars ($1,100,000). The lead applicant is the Pasadena Area Rapid Transit System.

(152) Pasadena Blue Line transit-oriented mixed-use development. One million five hundred thousand dollars ($1,500,000). The lead applicant is the City of South Pasadena.

(153) Pasadena Blue Line utility relocation. Five hundred fifty thousand dollars ($550,000). The lead applicant is the City of South Pasadena.

(154) Route 134/I-5 Interchange study. One hundred thousand dollars ($100,000). The lead applicant is the department.

(156) Seismic retrofit and core segment improvements for the Bay Area Rapid Transit system. Twenty million dollars ($20,000,000). The lead applicant is the San Francisco Bay Area Rapid Transit District.

(157) Route 12; congestion relief improvements from Route 29 to I-80 through Jamison Canyon. Seven million dollars ($7,000,000). The lead applicant is the department.

(158) Remodel the intersection of Olympic Boulevard, Mateo Street, and Porter Street and install a new traffic signal. Two million dollars ($2,000,000). The lead applicant is the City of Los Angeles.
(159) Route 101; redesign and construction of Steele Lane Interchange. Six million dollars ($6,000,000). The lead applicant is the department or the Sonoma County Transportation Authority.

(160) The extension of CalTrain from its present northern terminal to the Transbay Terminal in San Francisco, and the reconstruction and modernization of the Transbay Terminal in San Francisco. The lead applicant is the Transbay Joint Powers Authority.

(161) Blue Line to Claremont; extend rail line Pasadena to Claremont in Los Angeles County. The lead applicant is the Pasadena Metro Blue Line Construction Authority.

(b) As used in this section “route” is a state highway route as identified in Article 3 (commencing with Section 300) of Chapter 2 of Division 1 of the Streets and Highways Code.

SEC. 6. Section 164.56 of the Streets and Highways Code is amended to read:

164.56. (a) It is the intent of the Legislature to allocate twenty million dollars ($20,000,000) annually to the Environmental Enhancement and Mitigation Program Fund, which is hereby created.

(b) Local, state, and federal agencies and nonprofit entities may apply for and may receive grants, not to exceed five million dollars ($5,000,000) for any single grant, to undertake environmental enhancement and mitigation projects that are directly or indirectly related to the environmental impact of modifying existing transportation facilities or for the design, construction, or expansion of new transportation facilities.

(c) Projects eligible for funding include, but are not limited to, all of the following:

(1) Highway landscaping and urban forestry projects designed to offset vehicular emissions of carbon dioxide.

(2) Acquisition or enhancement of resource lands to mitigate the loss of, or the detriment to, resource lands lying within the right-of-way acquired for proposed transportation improvements facilities.

(3) Roadside recreational opportunities, including roadside rests, trails, trailheads, and parks.

(4) Projects to mitigate the impact of proposed transportation facilities or to enhance the environment, where the ability to effectuate the mitigation or enhancement measures is beyond the scope of the lead agency responsible for assessing the environmental impact of the proposed transportation improvement facility.

(d) Grant proposals shall be submitted to the Resources Agency for evaluation in accordance with procedures and criteria prescribed adopted by the Resources Agency. The Resources Agency shall evaluate proposals submitted to it and prepare a list of proposals recommended for funding. The list may be revised at any time. Prior to including a proposal on the list, the Resources Agency shall make a finding that the proposal is eligible for funding pursuant to subdivision (f).

(e) Within the fiscal limitations of subdivisions (a) and (b), the commission shall annually award grants to fund proposals that are included on the list prepared by the Resources Agency pursuant to subdivision (d).

(f) Projects funded pursuant to this section shall be projects that contribute to mitigation of the environmental effects of transportation facilities, as provided for by Section 1 of Article XIX of the California Constitution.
(g) Notwithstanding Section 7550.5 of the Government Code, on or before December 31 of each year, the commission shall provide the Assembly Committee on Budget and the Senate Committee on Budget and Fiscal Review with a list of projects funded from the Environmental Enhancement and Mitigation Program during the previous fiscal year and a copy of the most recent criteria for allocating grants pursuant to this section.

SEC. 7. Section 164.57 is added to the Streets and Highway Code, to read:

164.57. (a) The Transportation Impacts Mitigation Trust Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, all money in the trust fund is continuously appropriated to the Resources Agency, without regard to fiscal years, for expenditure by the Secretary of the Resources Agency in accordance with this section and paragraph (6) of subdivision (b) of Section 7105 of the Revenue and Taxation Code.

(b) (1) Local and state agencies, public agencies, and nonprofit organizations may apply for grants from the Resources Agency to undertake environmental enhancement and mitigation projects that are directly or indirectly related to the environmental impact of existing transportation facilities; the design, construction, or expansion of new transportation facilities; or the modification of existing transportation facilities.

(2) As used in this section, “nonprofit organization” means any nonprofit public benefit corporation formed pursuant to the Nonprofit Corporation Law (Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code), qualified to do business in California, and qualified under Section 501(c)(3) of the United States Internal Revenue Code, and which has among its primary purposes the creation and improvement of urban parks, or the preservation, protection, or enhancement of land or water resources in their natural, scenic, historical, agricultural, forested, or open-space condition or use.

(c) Projects eligible for funding include, but are not limited to, all of the following:

(1) Highway landscaping and urban forestry projects, as authorized by the California Urban Forestry Act of 1978 (Chapter 2 (commencing with Section 4799.06) of Part 2.5 of Division 4 of the Public Resources Code) designed to offset vehicular emissions of carbon dioxide.

(2) Acquisition or enhancement of resource lands to mitigate the loss of, or the detriment to, resource lands lying within or near the right-of-way acquired for proposed transportation facilities.

(3) Roadside recreational opportunities, including roadside rests, trails (including bicycle trails), trailheads, and parks.

(4) Projects to mitigate, or which contribute to the mitigation of, the direct or indirect impacts of proposed transportation facilities or to enhance the environment, where the ability to effectuate the mitigation or enhancement measures is beyond the authority of the lead agency responsible for assessing the environmental impact of the proposed transportation facility.

(5) Acquisition or enhancement of wildlife corridors and habitat linkages to mitigate the habitat fragmentation impacts of the expansion of transportation facilities.

(6) Projects to protect wildlife, recreational, or open-space resources from the cumulative impacts of the expansion of transportation facilities.

(7) Acquisition and development of river parkway projects along any river that is crossed by a public street or highway, and any river parkway project with
a bikeway or other recreational trail that provides public access to a river. Not less than ten percent (10%) of the money in the trust fund shall be expended for river parkway projects pursuant to this paragraph. Specific projects meeting the specifications of this paragraph that are authorized by paragraph (6) of subdivision (b) of Section 7105 of the Revenue and Taxation Code shall be counted toward this requirement.

(8) Acquisition and development of any urban park in an urbanized area affected by population growth or daily commuter traffic resulting from a transportation facility.

(9) Acquisition and protection of agricultural lands, grazing lands, or other open-space lands constituting the viewshed of a public street or highway.

(d) Grant proposals shall be submitted to the Resources Agency quarterly for evaluation in accordance with procedures and criteria adopted by the Resources Agency. These procedures and criteria shall not be subject to the review or approval of the Office of Administrative Law or subject to any other requirement of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) Sixty percent (60%) of the money in the trust fund shall be expended in County Group 2 and forty percent (40%) shall be expended in County Group 1. This calculation shall be made after expenditures from the trust fund for projects listed in paragraph (6) of subdivision (b) of Section 7105 of the Revenue and Taxation Code are made.

(f) In order to provide visual amenities for users of roads and highways, buffers between transportation and other land uses, weed abatement, repression of noxious non-native plants, prevention of fires which can cause road closures and safety hazards, and to prevent dumping on unused land which can result in hazardous material being blown on to the roadways, the Resources Agency shall allocate funds to the Department of Food and Agriculture pursuant to subparagraph (A) of paragraph (6) of subdivision (b) of Section 7105 of the Revenue and Taxation Code to make grants to local public agencies or nonprofit organizations in San Bernardino, Riverside, Orange, and San Diego Counties for the acquisition of agricultural easements or other interests in land within one-quarter mile of state or interstate highways and locally designated significant roads in or near urban or urbanizing areas for the purpose of maintaining land adjacent and nearby roads and highways in agricultural use. These grants may also be used to provide infrastructure necessary to allow these lands to be used for agricultural purposes and for land rents to make agriculture along roads and highways economically viable. Infrastructure may include providing water facilities and purchasing water, with first preference to reclaimed water facilities for the collection of water runoff and tailwater, pollution control facilities; electricity including solar photovoltaic generation; roadside stands to sell locally grown produce; and informational displays to interpret agriculture for motorists. The Department of Food and Agriculture shall work with applicants to develop this program in a way that makes it possible for small farmers to participate in the program. For purposes of this subdivision, in addition to the definition in subdivision (b) of Section 51201 of the Government Code, “agricultural use” includes the cultivation of native or ornamental plants, nursery activities, and the raising, keeping, and use of animals.

(g) The Department of Transportation shall allow the use of its lands for agricultural purposes unless prevented from doing so due to safety or environmental considerations, or if the lands are expected to be needed for transportation purposes within five years.
Money in the trust fund may be expended in compliance with the requirements of a habitat conservation plan, natural community conservation plan, multiple species conservation plan, or any similar plan if the other requirements of this section are met.

(i) Money appropriated, expended, or transferred pursuant to this section shall not be deemed to be a transfer of funds for the purposes of Chapter 9 (commencing with Section 2780) of Division 3 of the Fish and Game Code.

(j) At least twenty percent (20%) of the money from the trust fund shall be expended within the counties that are members of the Metropolitan Transportation Commission. This calculation shall be made after expenditures from the trust fund for projects listed in paragraph (6) of subdivision (b) of Section 7105 of the Revenue and Taxation Code are made.

(k) Notwithstanding Section 13340 of the Government Code or any other provision of this section, twenty-five percent (25%) of the money from the trust fund is continuously appropriated to, and shall be available each year to the State Coastal Conservancy for expenditure for the purposes of subdivision (c). This calculation shall include expenditures from the trust fund made pursuant to paragraph (6) of subdivision (b) of Section 7105 of the Revenue and Taxation Code. This allocation is made to reduce the many effects of transportation facilities such as State Routes 1, 101, and other roads that impact the resources of the coastal zone.

(l) If the Secretary for Resources approves a project for funding under subdivision (b) that was submitted by an agency within the Resources Agency for implementation either directly or through a grant to a public agency or nonprofit organization, then the provisions of this subdivision shall apply. In such cases, the Secretary may notify the Controller of the amount of funds to be allocated to the agency from funds deposited in the Transportation Impacts Mitigation Trust Fund in that fiscal year, and the Controller shall disburse that amount of money to the agency in same manner as if the money were appropriated to that agency by this section.

SEC. 8. Section 164.58 is added to the Streets and Highways Code, to read:

164.58. (a) The Transportation Water Quality Account is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, all money in the account is continuously appropriated, without regard to fiscal years, for expenditure in accordance with this section. The account shall be allocated by the State Water Resources Control Board solely for funding capital outlay projects and grants that prevent, reduce, remediate, or mitigate the adverse environmental impacts of motor vehicles and facilities used by motor vehicles on the quality of California’s waters and riparian habitats, through the acquisition, protection, restoration, and enhancement of streams, creeks, marshlands, diked lands, ponds, submerged and tidal lands, wetlands, and watersheds, subject to the following criteria and priorities:

(1) The account may be used only for projects and grants that are consistent with the adopted plans of the applicable regional water quality control board, applicable watershed management programs, or other adopted plans that identify goals, objectives, and implementation strategies for achieving compliance with this chapter and related statutes, including, but not limited to, Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code, Article 4 (commencing with Section 13160) of Chapter 3 of, and Chapter 5.6
(commencing with Section 13390) of, Division 7 of the Water Code, and Division 2 (commencing with Section 2001) of the Public Resources Code.

(2) The account may not be used to support projects or activities that are required as part of any permit, license, or entitlement, other than a permit or license that is required of a project whose purpose is to implement the purposes of this section.

(3) Priority shall be given to those projects and grants that most effectively accomplish the purposes of this section through the long-term protection, restoration, and enhancement of the natural environment.

(4) Projects and grants that are eligible for funding include, but are not limited to, all of the following:

(A) Nonpoint source pollution treatment and pollution reduction projects such as constructed, restored, and enhanced wetlands, marshlands, diked lands, ponds, streams, creeks, vegetated channels, and watersheds.

(B) Hydrologic modifications to improve natural stream functions such as removal of channel barriers and restoration of floodplain and low-flow channels, and to control erosion by restoring abandoned roads to more natural conditions, correcting design deficiencies of existing roads and culverts, and stabilizing stream banks.

(C) Acquisition of riparian buffers, wetlands, and watershed lands to protect, restore, and enhance the functioning of riparian and associated habitats and to protect, restore, and enhance the movement of fish and wildlife within and between those habitats.

(D) Acquisition of land and conservation easements to protect or facilitate the restoration of watersheds and habitats impacted by motor vehicles and motor vehicle facilities.

(E) Not more than ten percent (10%) of the money in the account may be expended by the board for research and education to improve scientific and public understanding of the impacts of motor vehicles, facilities used by motor vehicles, and related infrastructure on water quality, habitats, and the movement of fish and wildlife within and between those habitats, as well as the most effective projects and management practices for preventing, reducing, remediating, or mitigating those impacts.

(b) Sixty percent (60%) of the money in Transportation Water Quality Account shall be expended in County Group 2 and forty percent (40%) shall be expended in County Group 1. At least one-third of the money expended in County Group 2 shall be allocated to the Santa Ana Water Project Authority by the board for expenditure in the watershed of the Santa Ana River.

(c) Notwithstanding the requirements of subdivisions (a) and (b), the first priority for expenditure of money from the account shall be for the following:

(1) To the County of Orange, five hundred thousand dollars ($500,000) per year for maintenance and repair of water quality facilities within the Upper Newport Bay Ecological Reserve. This work will help mitigate the impact of pollutants generated from state and local transportation facilities within the Upper Newport Bay watershed.

(2) To the Irvine Ranch Water District, five hundred thousand dollars ($500,000) per year for maintenance and repair of water quality facilities within the San Diego Creek watershed. This work will help mitigate the impact of pollutants generated from state and local transportation facilities within the San Diego Creek watershed.
(3) To the State Coastal Conservancy, five hundred thousand dollars ($500,000) for the 2003–2004 fiscal year, for a grant to a nonprofit organization one of whose principal purposes is protection of coastal water quality, for acquisition of equipment to monitor and analyze coastal waters for pollutants that originate from runoff from roads in coastal watersheds.

SEC. 9. Section 164.59 is added to the Streets and Highways Code, to read:

164.59. (a) Notwithstanding any other provision of this code or the Water Code, if the use of recycled water meets the requirements of the State Department of Health Services, the Department of Transportation and its contractors shall use recycled wastewater for all irrigation purposes unless the local water agency, water district, city, city and county, or other agency supplying recycled wastewater is unable or unwilling to supply recycled wastewater to the Department of Transportation.

(b) In order to comply with the requirements of Section 42241 of the Public Resources Code, subdivision (c) of Section 12205 of the Public Contract Code, and the procurement requirements of the federal Resource Conservation and Recovery Act (P.L. 95-580) as set forth in 42 U.S.C. Sec. 6962, at least fifty percent (50%) of all compost, co-compost, and mulch products purchased by the department and its contractors shall be recycled products derived from organic materials. In making the determination whether to purchase recycled compost, co-compost, and mulch products, the department and its contractors shall make a maximum effort to use these products. The California Transportation Commission may reverse the decision of the department not to purchase recycled compost, co-compost, and mulch products on any highway segment.

SEC. 10. Section 894.5 is added to the Streets and Highways Code, to read:

894.5. (a) (1) Five percent (5%) of the funds in the Bicycle Efficiency Account in the Traffic Congestion Relief and Safe School Bus Trust Fund, created by paragraph (9) of subdivision (b) of Section 7105 of the Revenue and Taxation Code, shall be allocated by the Controller to the State Department of Health Services, to be used for bicycle education, safety, and promotion programs, in partnership with the University of California through the Physical Activity and Health Initiative, or any successor to that program.

(2) Ninety-five percent (95%) of the money in the Bicycle Efficiency Account shall be allocated by the Controller on a per capita basis to the regional transportation planning agencies for bicycle projects that primarily benefit bicycle commuters or students traveling to K–12 schools, colleges, or universities, rather than recreational users; and on the basis of whether the project increases the efficiency or safety of bicycle travel.

(3) Regional transportation planning agencies may expend this money for the following purposes:

(A) Striping or restriping highway lanes or widening outside lanes to better accommodate bicycles; or building highway bicycle lanes. Highest priority shall be given to projects on arterial streets.

(B) Converting streets from one way to two way to better accommodate bicyclists.

(C) Signage and stenciling to indicate the right of bicyclists to use the roadway.

(D) Bicycle parking devices; racks, carriages and other means of storing bicycles on buses, trains or ferries; facilities to improve bicycle parking, bicycle
rental availability, or bicycle repair services at or near transit stops; and other facilities such as showers, changing rooms, and bicycle storage facilities at places of employment, schools, or other destinations for commuter cyclists.

(E) Marking, adjusting, or replacing traffic signal actuation devices, such as inductive loops, to improve detection of bicycles.

(F) Implementation of training programs and instructional materials intended to teach bicyclists how to operate their bicycles as vehicles on public roadways and to inform the general public about the needs, rights, and responsibilities of bicyclists.

(G) Other projects intended to directly benefit bicycle commuters or students using public highways.

(4) Regional transportation planning agencies may spend up to twenty percent (20%) of the money received pursuant to paragraph (2) on the planning, design, maintenance, right-of-way acquisition or construction of paved multi-use paths meeting the standards for Class I bikeway if the bikeways are primarily used to reduce trips that would be otherwise taken in motor vehicles. A bikeway funded wholly or in part under paragraph (2) is not a trail for the purposes of Section 831.4 of the Government Code.

(b) (1) Money in the Pedestrian Account in the Traffic Congestion Relief and Safe School Bus Trust Fund, created by paragraph (10) of subdivision (b) of Section 7105 of the Revenue and Taxation Code, shall be allocated by the Controller on a per capita basis to the regional transportation planning agencies for sidewalk and rural walkway projects that primarily benefit pedestrians.

(2) A sidewalk project shall be eligible for funding only if it is in an urbanized area, with the highest priority given to projects that complete gaps in existing sidewalks with significant pedestrian traffic. Repair of an existing sidewalk is not eligible for funding pursuant to this subdivision.

(3) A rural walkway project shall be eligible for funding only if it is along a road that is heavily used by pedestrians or bicycling children on a suggested route to school, or if the project is in support of public transit use and is within one-third mile of a transit stop in a rural area.

(4) High priority for funding for pedestrian projects shall be given to projects that are eligible for the “Safe Routes to School” construction program established under Section 2333.5.

(c) If a regional transportation planning agency does not encumber money received for bicycle or pedestrian projects pursuant to this section within seven years, the money shall be returned to the account from which it came, and shall be redistributed in accordance with this section.

(d) No money from the account may be used on any project that increases the motor vehicle capacity of a highway, street, or road.

SEC. 11. Section 2106 of the Streets and Highways Code is amended to read:

2106. (a) A sum equal to the net revenue derived from one and four one-hundredths cent ($0.0104) per gallon tax under the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division 2 of the Revenue and Taxation Code) shall be apportioned monthly from the Highway Users Tax Account in the Transportation Tax Fund among the counties and cities as follows:

(1) Four hundred dollars ($400) per month shall be apportioned to each city and city and county and eight hundred dollars ($800) per month shall be apportioned to each county and city and county.
(b) (A) (2) Commencing on July 31, 2001, and on the last day of each month after that date; and including June 30, 2006, the sum of not less than six hundred thousand dollars ($600,000) per month shall be transferred to the Bicycle Transportation Account in the State Transportation Fund.

(2) After June 30, 2006; the sum of four hundred sixteen thousand six hundred sixty-seven dollars ($416,667) shall be transferred on the last day of each month after that date to the Bicycle Transportation Account in the State Transportation Fund:

(e) (3) The balance shall be apportioned, as follows:

(A) A base sum shall be computed for each county by using the same proportions of fee-paid and exempt vehicles as are established for purposes of apportionment of funds under subdivision (d) of Section 2104.

(B) For each county, the percentage of the total assessed valuation of tangible property subject to local tax levies within the county which is represented by the assessed valuation of tangible property outside the incorporated cities of the county shall be applied to its base sum, and the resulting amount shall be apportioned to the county. The assessed valuation of taxable tangible property, for purposes of this computation, shall be that most recently used for countywide tax levies as reported to the Controller by the State Board of Equalization. If an incorporation or annexation is legally completed following the base sum computation, the new city’s assessed valuation shall be deducted from the county’s assessed valuation, the estimate of which may be provided by the State Board of Equalization.

(C) The difference between the base sum for each county and the amount apportioned to the county shall be apportioned to the cities of that county in the proportion that the population of each city bears to the total population of all the cities in the county. Populations used for determining apportionment of money under Section 2107 are to be used for purposes of this section.

(b) The Legislature may amend this section, but any statute that attempts, or has the effect of, reducing, in whole or part, the amount of money required to be allocated to the Bicycle Transportation Account pursuant to paragraph (2) of subdivision (a) shall be void and without force or effect.

SEC. 12. Section 2331 of the Streets and Highways Code, as amended by Section 1 of Chapter 600 of the Statutes of 2001, is repealed.

2331. (a) The Highway Safety Act of 1973 (Title II of P.L. 93-87; 87 Stat. 250) has authorized appropriations for a number of programs relating to projects for the improvement of highway safety and the reduction of traffic congestion. These programs consist of the rail-highway crossings program (Section 203 of the Highway Safety Act of 1973); the pavement marking demonstration program (23 U.S.C. Sec. 151); projects for high-hazard locations, including, but not limited to, projects for bicycle and pedestrian safety and traffic calming measures in those locations (23 U.S.C. Sec. 152); program for the elimination of roadside obstacles (23 U.S.C. Sec. 153); and the federal-aid safer roads demonstration program (23 U.S.C. Sec. 405). The purpose of this chapter is to implement these programs in this state. The commission, the department, boards of supervisors, and city councils are authorized to do all things necessary in their respective jurisdictions to secure and expend federal funds in accordance with the intent of the federal act and of this chapter.

(b) This section shall remain in effect only until January 1, 2005; and as of that date is repealed; unless a later enacted statute; that is enacted before January 1, 2005; deletes or extends that date:
SEC. 13. Section 2331 of the Streets and Highways Code, as added by Section 3 of Chapter 600 of the Statutes of 2001, is repealed.

2331. (a) The Highway Safety Act of 1973 (Title II of P.L. 93-87, 87 Stat. 250) has authorized appropriations for a number of programs relating to projects for the improvement of highway safety and the reduction of traffic congestion. These programs consist of the rail-highway crossings program (Section 203 of the Highway Safety Act of 1973); the pavement marking demonstration program (23 U.S.C. Sec. 151); projects for high-hazard locations (23 U.S.C. Sec. 152); program for the elimination of roadside obstacles (23 U.S.C. Sec. 153); and the federal-aid safer roads demonstration program (23 U.S.C. Sec. 405). The purpose of this chapter is to implement these programs in this state. The commission, the department; boards of supervisors, and city councils are authorized to do all things necessary in their respective jurisdictions to secure and expend federal funds in accordance with the intent of the federal act and of this chapter.

(b) This section shall become operative on January 1, 2005.

SEC. 14. Section 2331 is added to the Streets and Highways Code, to read:

2331. The Highway Safety Act of 1973 (Title II of P.L. 93-87, 87 Stat. 250) has authorized appropriations for a number of programs relating to projects for the improvement of highway safety and the reduction of traffic congestion. These programs consist of the rail-highway crossings program (Section 203 of the Highway Safety Act of 1973), the pavement marking demonstration program (23 U.S.C. Sec. 151); projects for high-hazard locations, including, but not limited to, projects for bicycle and pedestrian safety and traffic calming measures in those locations (23 U.S.C. Sec. 152); program for the elimination of roadside obstacles (23 U.S.C. Sec. 153); and the federal-aid safer roads demonstration program (23 U.S.C. Sec. 405). The purpose of this chapter is to implement these programs in this state. The commission, the department, boards of supervisors, and city councils are authorized to do all things necessary in their respective jurisdictions to secure and expend federal funds in accordance with the intent of the federal act and of this chapter.

SEC. 15. Section 2333 of the Streets and Highways Code, as amended by Section 4 of Chapter 600 of the Statutes of 2001, is repealed.

2333. (a) In each annual proposed budget prepared pursuant to Section 165, there shall be included an amount equal to the estimated apportionment available from the federal government for the programs described in Sections 2331 and 2333.5. The commission may allocate a portion of those funds each year for use on city streets and county roads: For projects authorized under Section 2333.5 and receiving funding under this section, the department may substitute State Highway Account funds in accordance with the department’s policy for state funding in place at the time of the project fund allocation: if those federal funds are directed to projects on state highways that are eligible for funding under Section 152 of Title 23 of the United States Code: It is the intent of the Legislature that the commission allocate the total amount received from the federal government for all of the programs described in Sections 2331 and 2333.5 in a manner that, over a period of five years, makes not less than one million dollars ($1,000,000) of those funds available for use pursuant to Section 2333.5 and the remaining funds available for use in approximately equal amounts on state highways, local roads, and the program established under Section 2333.5: In addition, it is the intent of the Legislature that the commission shall
apportion for use; in financing the railroad grade separation program described in Section 190; a substantial portion of the funds received pursuant to the federal rail-highway crossings program. Notwithstanding any other provision of law, the share of any railroad of the cost of maintaining railroad crossing protection facilities funded, in whole or in part; by funds described in Section 2334 shall be the same share it would be if no federal funds were involved and the crossing protection facilities were funded pursuant to an order of the Public Utilities Commission pursuant to Section 1202 of the Public Utilities Code; and in case of dispute; the Public Utilities Commission shall determine that share pursuant to this section:

(b) This section shall remain in effect only until January 1, 2005; and as of that date is repealed; unless a later enacted statute, that is enacted before January 1, 2005; deletes or extends that date:

SEC. 16. Section 2333 of the Streets and Highways Code, as added by Section 6 of Chapter 600 of the Statutes of 2001, is repealed.

2333. (a) In each annual proposed budget prepared pursuant to Section 165; there shall be included an amount equal to the estimated apportionment available from the federal government for the programs described in Section 2334. The commission may allocate a portion of such funds each year for use on city streets and county roads: It is the intent of the Legislature that the commission allocate the total amount received from the federal government for all of the programs described in Section 2334 in such a manner that, over a period of five years, such funds are made available for use in approximately equal amounts on state highways and on local roads: In addition; it is the intent of the Legislature that the commission shall apportion for use; in financing the railroad grade separation program described in Section 190; a substantial portion of the funds received pursuant to the federal rail-highway crossings program. Notwithstanding any other provision of law, the share of any railroad of the cost of maintaining railroad crossing protection facilities funded, in whole or in part; by funds described in Section 2334 shall be the same share it would be if no federal funds were involved and the crossing protection facilities were funded pursuant to an order of the Public Utilities Commission pursuant to Section 1202 of the Public Utilities Code; and in case of dispute; the Public Utilities Commission shall determine such share pursuant to this section:

(b) This section shall become operative on January 1, 2005.

SEC. 17. Section 2333 is added to the Streets and Highways Code, to read:

2333. In each annual proposed budget prepared pursuant to Section 165, there shall be included an amount equal to the estimated apportionment available from the federal government for the programs described in Sections 2331 and 2333.5. The commission may allocate a portion of those funds each year for use on city streets and county roads. The commission shall allocate the total amount received from the federal government for all of the programs described in Sections 2331 and 2333.5 in a manner that, over a period of five years, makes not less than one million dollars ($1,000,000) of those funds available for use pursuant to Section 2333.5 and the remaining funds available for use in approximately equal amounts on state highways, local roads, and the program established under Section 2333.5. In addition, the commission shall apportion for use, in financing the railroad grade separation program described in Section 190, a substantial portion of the funds received pursuant to the federal rail-highway crossings program. Notwithstanding any other provision of law,
the share of any railroad of the cost of maintaining railroad crossing protection facilities funded, in whole or in part, by funds described in Section 2331 shall be the same share it would be if no federal funds were involved and the crossing protection facilities were funded pursuant to an order of the Public Utilities Commission pursuant to Section 1202 of the Public Utilities Code; and in case of dispute, the Public Utilities Commission shall determine that share pursuant to this section.

SEC. 18. Section 2333.5 of the Streets and Highways Code, as amended by Section 7 of Chapter 600 of the Statutes of 2001, is repealed.

2333.5. (a) The department, in consultation with the Department of the California Highway Patrol, shall establish and administer a “Safe Routes to School” construction program pursuant to the authority granted under Section 152 of Title 23 of the United States Code and shall use federal transportation funds for construction of bicycle and pedestrian safety and traffic calming projects:

(b) The department shall make grants available to local governmental agencies under the program based on the results of a statewide competition that requires submission of proposals for funding and rates those proposals on all of the following factors:

1. Demonstrated needs of the applicant:
2. Potential of the proposal for reducing child injuries and fatalities:
3. Potential of the proposal for encouraging increased walking and bicycling among students:
4. Identification of safety hazards:
5. Identification of current and potential walking and bicycling routes to school:
6. Consultation and support for projects by school-based associations; local traffic engineers; local elected officials; law enforcement agencies; and school officials:

(c) With respect to the use of funds provided in subdivision (a); prior to the award of any construction grant or the department’s use of those funds for a “Safe Routes to School” construction project encompassing a freeway; state highway or county road; the department shall consult with; and obtain approval from; the Department of the California Highway Patrol; ensuring that the “Safe Routes to School” proposal compliments the California Highway Patrol’s Pedestrian Corridor Safety Program and is consistent with its statewide pedestrian safety statistical analysis:

(d) (1) The department shall study the effectiveness of the program established under this section with particular emphasis on the program’s effectiveness in reducing traffic accidents and its contribution to improving safety and reducing the number of child injuries and fatalities in the vicinity of the project.

2. The department shall submit a report to the Legislature on or before December 31; 2005; regarding the results of the study described in paragraph (1).

3. On March 30; 2002; and each March 30th thereafter; the department shall submit an annual report to the Legislature listing and describing those projects funded under this section:

(e) This section shall remain in effect only until January 1; 2005; and as of that date is repealed; unless a later enacted statute; that is enacted before January 1; 2005; deletes or extends that date:
SEC. 19. Section 2333.5 is added to the Streets and Highways Code, to read:

2333.5. (a) The department, in consultation with the Department of the California Highway Patrol, shall establish and administer a “Safe Routes to School” construction program pursuant to the authority granted under Section 152 of Title 23 of the United States Code and shall use federal transportation funds for construction of bicycle and pedestrian safety and traffic calming projects.

(b) The department shall make grants available to local governmental agencies under the program based on the results of a statewide competition that requires submission of proposals for funding and rates those proposals on all of the following factors:

1. Demonstrated needs of the applicant.
2. Potential of the proposal for reducing child injuries and fatalities.
3. Potential of the proposal for encouraging increased walking and bicycling among students.
4. Identification of safety hazards.
5. Identification of current and potential walking and bicycling routes to school.
6. Consultation and support for projects by school-based associations, local traffic engineers, local elected officials, law enforcement agencies, and school officials.

(c) With respect to the use of funds provided in subdivision (a), prior to the award of any construction grant or the department’s use of those funds for a “Safe Routes to School” construction project encompassing a freeway, state highway, or county road, the department shall consult with, and obtain approval from, the Department of the California Highway Patrol, ensuring that the “Safe Routes to School” proposal complements the California Highway Patrol’s Pedestrian Corridor Safety Program and is consistent with its statewide pedestrian safety statistical analysis.

(d) (1) The department shall study the effectiveness of the program established under this section with particular emphasis on the program’s effectiveness in reducing traffic accidents and its contribution to improving safety and reducing the number of child injuries and fatalities in the vicinity of the project.

(2) The department shall submit a report to the Legislature on or before December 31, 2004, regarding the results of the study described in paragraph (1).

(3) On March 31, 2003, and each March 31 thereafter, the department shall submit an annual report to the Legislature listing and describing those projects funded under this section.

SEC. 20. Chapter 7 (commencing with Section 99571) is added to Part 11 of Division 10 of the Public Utilities Code, to read:

CHAPTER 7. THE PASSENGER RAIL IMPROVEMENT, SAFETY, AND MODERNIZATION PROGRAM

99571. There is hereby created the Passenger Rail Improvement, Safety, and Modernization Program.

99572. For purposes of this chapter, “program” is the Passenger Rail Improvement, Safety, and Modernization Program established under this chapter.
The Passenger Rail Improvement, Safety, and Modernization Subaccount is hereby created in the Public Transportation Account in the State Transportation Fund.

Funds transferred to the Passenger Rail Improvement, Safety, and Modernization Subaccount shall be allocated by the Controller to eligible recipients, as follows:

(a) To eligible recipients except for a national rail passenger service provider, based upon the following:
   (1) One-third of the route miles utilized by the eligible recipient.
   (2) One-third of the annual vehicle miles.
   (3) One-third of the annual passenger trips.

(b) To a national rail passenger service provider, based upon the following:
   (1) One-third of the route miles utilized by state-supported intercity rail.
   (2) One-third of the annual vehicle miles.
   (3) One-third of the annual passenger trips.

(c) For the purposes of this section, the following terms have the following meanings:
   (1) “Track miles” means the miles of track used by a public agency or joint powers authority for regular passenger rail service.
   (2) “Vehicle miles” means the total miles traveled, commencing with pullout from the maintenance depot, by all locomotives and cars operated in a train consist for passenger rail service by a public agency or joint powers authority.
   (3) “Passenger trips” means the annual unlinked passenger boardings reported by a public agency or joint powers authority for regular passenger rail service.
   (4) “Route miles” means the total miles a train travels between the first and last station of each passenger rail line operated by a public agency or joint powers authority.

(a) Eligible recipients for funding under this chapter shall be public agencies and joint power authorities that operate regularly scheduled passenger rail service in the following categories:
   (1) Cable car.
   (2) Commuter rail.
   (3) Light rail.
   (4) Heavy rail.
   (5) The Department of Transportation, for state-supported intercity rail.

(b) In addition to subdivision (a), eligible recipients of funding under this chapter shall be the Department of Transportation, for intercity rail services, and other passenger rail operators that provide regularly scheduled service and use public funds to operate and maintain rail facilities, rights-of-way, and equipment.

(a) Funds allocated pursuant to the program shall be used for the rehabilitation or modernization of tracks utilized for public passenger rail transit, signals, structures, facilities, and rolling stock.

(b) Eligible recipients may use the funds for any eligible rail element set forth in subdivision (a).

(c) Funds allocated pursuant to this chapter to the Southern California Regional Rail Authority for eligible projects within its service area shall be apportioned each fiscal year in accordance with memorandums of understanding to be executed between the Southern California Regional Rail Authority and its member agencies. The memorandum or memorandums of understanding shall
take into account the rail rehabilitation needs of the Southern California Regional Rail Authority and of the member agencies, revenue attributable to member agencies, and separate contributions to the Southern California Regional Rail Authority from the member agencies.

(d) Any funds allocated pursuant to this chapter not contractually obligated to a project within three years from the date of allocation shall be returned to the Passenger Rail Improvement, Safety, and Modernization Subaccount for reallocation in the following fiscal year.

99579. (a) In order to be eligible for funding under this chapter, an eligible recipient shall provide matching funds in an amount not less than the total amount allocated to the recipient from the Passenger Rail Improvement, Safety, and Modernization Subaccount.

(b) An eligible recipient of funding shall certify that it has met its matching funds requirement, and all other requirements of this chapter, by resolution of its governing board.

99580. (a) Funds made available under this chapter shall supplement existing local, state, or federal revenues being used for maintenance and rehabilitation of the passenger rail system. Eligible recipients of funding shall maintain their existing commitment of local, state, or federal funds for maintenance and rehabilitation of the passenger rail system in order to remain eligible for allocation and expenditure of the additional funding made available by this chapter.

(b) In order to receive any allocation under this chapter, an eligible recipient shall annually expend from existing local, state, or federal revenues being used for maintenance and rehabilitation of the passenger rail system an amount not less than the annual average of its expenditures from local revenues for those purposes during the 1997–98, 1998–99, and 1999–2000 fiscal years, and as increased by the Consumer Price Index.

SEC. 21. Section 41202 of the Education Code is amended to read:

41202. The words and phrases set forth in subdivision (b) of Section 8 of Article XVI of the Constitution of the State of California shall have the following meanings:

(a) “Moneys to be applied by the State,” as used in subdivision (b) of Section 8 of Article XVI of the California Constitution, means appropriations from the General Fund that are made for allocation to school districts, as defined, or community college districts. An appropriation that is withheld, impounded, or made without provisions for its allocation to school districts or community college districts, shall not be considered to be “moneys to be applied by the State.”

(b) (1) “General Fund revenues which may be appropriated pursuant to Article XIII B,” as used in paragraph (1) of subdivision (b) of Section 8 of Article XVI, means General Fund revenues that are the proceeds of taxes as defined by subdivision (c) of Section 8 of Article XIII B of the California Constitution, including, for the 1986–87 fiscal year only, any revenues that are determined to be in excess of the appropriations limit established pursuant to Article XIII B for the fiscal year in which they are received. General Fund revenues for a fiscal year to which paragraph (1) of subdivision (b) is being applied shall include, in that computation, only General Fund revenues for that fiscal year that are the proceeds of taxes, as defined in subdivision (c) of Section 8 of Article XIII B of the California Constitution, and shall not include prior fiscal year revenues. Commencing with the 1995–96 fiscal year, and each fiscal year thereafter,
“General Fund revenues that are the proceeds of taxes,” as defined in subdivision (c) of Section 8 of Article XIII B of the California Constitution, includes any portion of the proceeds of taxes received from the state sales tax that are transferred to the counties pursuant to, and only if, legislation is enacted during the 1995–96 fiscal year the purpose of which is to realign children’s programs. The amount of the proceeds of taxes shall be computed for any fiscal year in a manner consistent with the manner in which the amount of the proceeds of taxes was computed by the Department of Finance for purposes of the Governor’s Budget for the Budget Act of 1986.

(2) Pursuant to Section 8 of Article XVI of the California Constitution, funds in the Traffic Congestion Relief and Safe School Bus Trust Fund in the State Treasury, established under Section 7105 of the Revenue and Taxation Code, shall be added to General Fund revenues otherwise considered in making the calculations required under Section 8 of Article XVI.

(c) “General Fund revenues appropriated for school districts,” as used in paragraph (1) of subdivision (b) of Section 8 of Article XVI of the California Constitution, means the sum of appropriations made that are for allocation to school districts, as defined in Section 41302.5, regardless of whether those appropriations were made from the General Fund to the Superintendent of Public Instruction, to the Controller, or to any other fund or state agency for the purpose of allocation to school districts. The full amount of any appropriation shall be included in the calculation of the percentage required by paragraph (1) of subdivision (b) of Section 8 of Article XVI, without regard to any unexpended balance of any appropriation. Any reappropriation of funds appropriated in any prior year shall not be included in the sum of appropriations.

(d) “General Fund revenues appropriated for community college districts,” as used in paragraph (1) of subdivision (b) of Section 8 of Article XVI of the California Constitution, means the sum of appropriations made that are for allocation to community college districts, regardless of whether those appropriations were made from the General Fund to the Controller, to the Chancellor of the California Community Colleges, or to any other fund or state agency for the purpose of allocation to community college districts. The full amount of any appropriation shall be included in the calculation of the percentage required by paragraph (1) of subdivision (b) of Section 8 of Article XVI, without regard to any unexpended balance of any appropriation. Any reappropriation of funds appropriated in any prior year shall not be included in the sum of appropriations.

(e) “Total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as used in paragraph (2) or (3) of subdivision (b) of Section 8 of Article XVI of the California Constitution, means the sum of appropriations made that are for allocation to school districts, as defined in Section 41302.5, and community college districts, regardless of whether those appropriations were made from the General Fund to the Controller, to the Superintendent of Public Instruction, to the Chancellor of the California Community Colleges, or to any other fund or state agency for the purpose of allocation to school districts and community college districts. The full amount of any appropriation shall be included in the calculation of the percentage required by paragraph (2) or (3) of subdivision (b) of Section 8 of Article XVI, without regard to any unexpended balance of any appropriation. Any reappropriation of funds appropriated in any prior year shall not be included in the sum of appropriations.
(f) “General Fund revenues appropriated for school districts and community college districts, respectively” and “moneys to be applied by the state for the support of school districts and community college districts,” as used in Section 8 of Article XVI of the California Constitution, shall include funds appropriated for the Child Care and Development Services Act pursuant to Chapter 2 (commencing with Section 8200) of Part 6 and shall not include any of the following:

(1) Any appropriation that is not made for allocation to a school district, as defined in Section 41302.5, or to a community college district regardless of whether the appropriation is made for any purpose that may be considered to be for the benefit to a school district, as defined in Section 41302.5, or a community college district. This paragraph shall not be construed to exclude any funding appropriated for the Child Care and Development Services Act pursuant to Chapter 2 (commencing with Section 8200) of Part 6.

(2) Any appropriation made to the Teachers’ Retirement Fund or to the Public Employees’ Retirement Fund except those appropriations for reimbursable state mandates imposed on or before January 1, 1988.

(3) Any appropriation made to service any public debt approved by the voters of this state.

(g) “Allocated local proceeds of taxes,” as used in paragraph (2) or (3) of subdivision (b) of Section 8 of Article XVI of the California Constitution, means, for school districts as defined, those local revenues, except revenues identified pursuant to paragraph (5) of subdivision (h) of Section 42238, that are used to offset state aid for school districts in calculations performed pursuant to Sections 2558, 42238, and Chapter 7.2 (commencing with Section 56836) of Part 30.

(h) “Allocated local proceeds of taxes,” as used in paragraph (2) or (3) of subdivision (b) of Section 8 of Article XVI of the California Constitution, means, for community college districts, those local revenues that are used to offset state aid for community college districts in calculations performed pursuant to Section 84700. In no event shall the revenues or receipts derived from student fees be considered “allocated local proceeds of taxes.”

(i) For the purposes of calculating the 4 percent entitlement pursuant to subdivision (a) of Section 8.5 of Article XVI of the California Constitution, “the total amount required pursuant to Section 8(b)” shall mean the General Fund aid required for schools pursuant to subdivision (b) of Section 8 of Article XVI of the California Constitution, and shall not include allocated local proceeds of taxes.

(j) The Legislature may amend paragraph (2) of subdivision (b) to better achieve its intent, which is to ensure that the initiative measure that amended this section does not diminish funding for school districts or community college districts to a level that is below that which would be required had the initiative measure that amended this section not been approved.

SEC. 22. If any provision of this act or the application thereof is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 23. (a) It is the intent of the People of the State of California in approving this act that, should any statute or amendment to the California Constitution be approved on November 5, 2002, that could prevent this act from taking effect, the People intend that this act go into effect, regardless of the
passage of any such statute or constitutional amendment, and regardless of the number of votes received by any measure on the November 5, 2002, ballot.

(b) This act shall take effect notwithstanding any other provision of law.

(c) It is the express intent of the voters that this act shall take effect and become operative at 12:01 a.m. on November 5, 2002.

(d) It is the express intent of the voters that this act shall take effect and become operative even if the California Constitution is amended at the November 5, 2002, election to prohibit or restrict the enactment of new taxation.

(e) Notwithstanding any other provision of this section, Section 2 of this act shall take effect on January 1, 2003.

SEC. 24. (a) This act shall be liberally construed to further its purposes, especially with respect to being allowed to take effect.

(b) Any conflict between a provision in this act and any other provision of law in existence prior to the effective date of this act shall be resolved in favor of the provision in this act.

(c) The act shall be implemented in the most expeditious manner. All state and local officials shall implement this act to the fullest extent of their authority.

(d) Any person has standing to enforce any provision of this act.

(e) Money appropriated, expended, or transferred pursuant to this measure shall not be deemed to be a transfer of funds for the purposes of Chapter 9 (commencing with Section 2780) of Division 3 of the Fish and Game Code.

52. Election Day Voter Registration. Voter Fraud Penalties.

[Submitted by the initiative and rejected by electors November 5, 2002.]

PROPOSED LAW

ELECTION DAY VOTER REGISTRATION ACT OF 2002

ARTICLE 1. TITLE

SECTION 1. This measure shall be known and may be cited as the “Election Day Voter Registration Act of 2002.”

ARTICLE 2. FINDINGS AND PURPOSES

SEC. 2. The people of the State of California hereby find and declare:

(1) It should be the policy of this state to ensure that every legally eligible voter who wants to vote has the chance to do so.

(2) Voter turnout in California is on the decline. In fact, the California 2000 Presidential election had the lowest voter turnout since the election of 1924. As the largest and most diverse state in the nation, California should modify its laws for the purpose of increasing voter turnout and should take all reasonable steps to achieve that purpose. States that currently allow Election Day Voter Registration lead the nation in voter turnout.

(3) The purposes of the Election Day Voter Registration Act are to:

(a) establish procedures that enable eligible voters to register and vote on Election Day;

(b) give every legally eligible voter the opportunity to vote; and

(c) increase protections against voter fraud.
(4) The Election Day Voter Registration Act increases penalties for vote fraud and voter registration fraud.

(5) It provides additional time for elections officials to prepare voter rolls and materials for Election Day.

ARTICLE 3. ELECTION DAY VOTER REGISTRATION

SEC. 3. Article 4.5 (commencing with Section 2170) is added to Chapter 2 of Division 2 of the Elections Code, to read:

Article 4.5. Election Day Registration and Voting

2170. In addition to other methods of voter registration provided by this code, any elector who is otherwise qualified to vote under this code and Section 2 of Article II of the California Constitution may register or reregister to vote in accordance with the following provisions upon presentation of proof of current residence address:

(a) An elector may register to vote, or may reregister if the reregistration is based on a change of legal name or place of residence, on election day at the polling place in his or her precinct. The elections official shall provide voter registration forms for use in registration at all voting locations.

(b) An elector may register or reregister to vote beginning 28 days prior to the election and continuing through election day at any office of the county elections official in the county in which the voter resides. If the voter is currently registered within the county and has moved within that county, he or she must only complete a new affidavit of registration.

2171. (a) A person who registers or reregisters to vote on the day of the election, upon showing proof of current residence and executing an affidavit of registration that certifies under penalty of perjury that the information contained in the affidavit is true and correct, may cast a ballot as provided in Article 4 (commencing with Section 14270) of Chapter 3 of Division 14.

(b) For purposes of this section, proof of current residence for a voter attempting to vote at the polling place at which he or she is entitled to vote based on his or her current residence address shall consist of:

1. A current, valid California driver’s license or California identification card that includes the name and current residence address of the voter; or

2. Any two documents from the categories listed below, except that no more than one document per category listed in subparagraphs (L) and (M) shall be used, both of which shall contain the name and current residence address of the voter:

(A) Military identification.
(B) College or university fee card or student identification.
(C) Lease agreement.
(D) Mortgage statement.
(E) Property tax statement.
(F) Income tax return.
(G) Utility bill.
(H) Credit card bill.
(I) Bank statement.
(J) Preprinted check or bank deposit slip.
(K) Vehicle registration.
(L) Mail addressed to the voter at his or her current residence address.
(M) Sworn written statement given in the presence of a poll worker at the polling place from a registered voter in the precinct stating that he or she knows
and can identify the person who is attempting to vote, and attesting to the name
and residence address of the person attempting to vote.

(c) The elections official shall send a voter notification form after the date
of the election to any person who is properly registered or reregistered to vote
pursuant to this section, and the voter shall be registered for future elections at
the address at which the voter is so registered or reregistered. The affidavit of
registration of any person whose voter notification form is returned by the post
office as undeliverable shall be processed in accordance with the procedures set
forth in Section 2221.

2172. A person who resides in an all-mail ballot precinct or in a jurisdiction
holding an all-mail ballot election who wishes to register or reregister to
vote within 28 days of the election or on election day may do so pursuant to
subdivision (b) of Section 2170.

2173. The elections official shall compile a list or index of voters who
registered or reregistered to vote pursuant to this article. After the canvass of the
votes for the election, the elections official shall review the names on the list or
index and cancel any duplicate voter registrations that may exist. If it appears
that any voter whose name appears on the list or index may have committed
fraud within the meaning of Section 18560 of the Elections Code, the elections
official shall immediately notify in writing both the district attorney and the
Secretary of State.

2174. (a) Each polling place shall have a separate area dedicated to
election day voter registration. At least one precinct board member in each
polling place shall be trained prior to the election in election day registration
and voting procedures and shall be assigned to conduct election day voter
registration. New registration or reregistration under this act shall be conducted
in a manner that does not interfere with or delay the voting of persons previously
registered to vote.

(b) The elections official shall provide training to any persons who will be
conducting election day registration or reregistration. Students who meet the
requirements of Section 12302 may also conduct election day registration or
reregistration provided they undergo the training provided for that purpose and
are approved by the elections official.

2175. (a) Each polling place shall provide in a conspicuous location in the
area designated for voter registration a poster that includes all of the following
information:

(1) A statement that the law provides for election day registration and/or
reregistration.

(2) A description of the types of documents that may be used to demonstrate
proof of current residence.

(3) A statement that registration documents are signed under penalty of
perjury and that any fraudulent statement made in connection with registering
to vote may subject the person to criminal prosecution.

(b) In addition to the poster specified by subdivision (a), the same information
will be available in written form for distribution at the polling place in any
languages in which the ballot and voter registration materials are required to
be available.

(c) The Secretary of State and each elections official shall educate voters
about election day registration, and shall include information about the
availability of election day registration in all existing voter education efforts. Information about election day voter registration will be available in languages other than English as required by current law relating to registration and voting materials.

ARTICLE 4. INCREASED PENALTIES FOR FRAUD

SEC. 4. In order to minimize the possibility of fraudulent registration or voting activity, the penalties for engaging in such activity, or conspiring to engage in such activity, shall be increased. The following Elections Code provisions are hereby amended to increase the penalties as indicated:

18001. Upon a conviction for any crime punishable by imprisonment in any jail or prison, in relation to which no fine is herein prescribed, the court may impose a fine on the offender not exceeding one thousand dollars ($1,000) in cases of misdemeanors or ten thousand dollars ($10,000) in cases of felonies, in addition to the imprisonment prescribed.

SEC. 5. NEW PENALTIES FOR CONSPIRACY TO COMMIT FRAUD.
Section 18561.1 is added to the Elections Code, to read:

18561.1. If two or more persons conspire to commit the following acts they are guilty of a felony punishable by imprisonment in state prison for three, four, or five years:

(a) Not being entitled to vote at an election, fraudulently votes or fraudulently attempts to vote at an election.

(b) Being entitled to vote at an election, votes more than once or attempts to vote more than once.

(c) Procures, assists, counsels, or advises another person to vote at an election, knowing that the person is not entitled to vote.

(d) Procures, assists, counsels, or advises another person otherwise entitled to vote at an election to vote more than once.

(e) Pays, lends, contributes, offers or promises any money or other valuable consideration to another person to vote at an election for any particular candidate.

(f) Attempts to pay, lend, contribute, offer or promise any money or other valuable consideration to another person to vote at an election for any particular candidate.

ARTICLE 5. CLOSE OF REGISTRATION OTHER THAN 28-DAY PERIOD PRIOR TO ELECTION DAY REGISTRATION AND ELECTION DAY; OTHER CONFORMING CHANGES TO ELECTIONS CODE

SEC. 6. This act changes the current 15-day close of registration to 29 days, except in cases of voter registration in accordance with the provisions of this act occurring in the 28-day period prior to the election and on election day. The following provisions of the Elections Code are amended to effectuate this change:

SEC. 7. Section 321 of the Elections Code is amended to read:

321. “Elector” means any person who is a United States citizen 18 years of age or older and a resident of an election precinct the State of California at least 29 days prior to an election.

SEC. 8. Section 2035 of the Elections Code is amended to read:
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2035. A person duly registered as a voter in any precinct in California who removes therefrom within 14 28 days prior to an election shall, for the purpose of that election, be entitled to vote in the precinct from which the person so removed until the close of the polls on the date of that election.

SEC. 9. Section 2100 of the Elections Code is amended to read:

2100. No person shall be registered except as provided in this chapter except, or as provided in Article 4.5 (commencing with Section 2170) of Chapter 2 of Division 2, or upon the production and filing of a certified copy of a judgment of the superior court directing registration to be made.

SEC. 10. Section 2102 of the Elections Code is amended to read:

2102. (a) A person may not be registered as a voter except by affidavit of registration. The affidavit shall be mailed or delivered to the county elections official and shall set forth all of the facts required to be shown by this chapter. A properly executed registration shall be deemed effective upon receipt of the affidavit by the county elections official if received on or before the 15th 29th day prior to an election to be held in the registrant’s precinct, or during the 28 days prior to the election or on election day in accordance with Article 4.5 (commencing with Section 2170) of Chapter 2 of Division 2. A properly executed registration shall also be deemed effective upon receipt of the affidavit by the county elections official if any of the following apply:

(1) The affidavit is postmarked on or before the 15th 29th day prior to the election and received by mail by the county elections official.

(2) The affidavit is submitted to the Department of Motor Vehicles or accepted by any other public agency designated as a voter registration agency pursuant to the National Voter Registration Act of 1993 (42 U.S.C. Sec. 1973gg) on or before the 15th 29th day prior to the election.

(3) The affidavit is delivered to the county elections official by means other than those described in paragraphs paragraph (1) or (2) on or before the 15th 29th day prior to the election.

(b) For purposes of verifying signatures on a recall, initiative, or referendum petition or signatures on a nomination paper or any other election petition or election paper, a properly executed affidavit of registration shall be deemed effective for verification purposes if both (a) (1) the affidavit is signed on the same date or a date prior to the signing of the petition or paper, and (b) (2) the affidavit is received by the county elections official on or before the date on which the petition or paper is filed.

(c) Notwithstanding any other provision of law to the contrary, the affidavit of registration required under this chapter may not be taken under sworn oath, but the content of the affidavit shall be certified as to its truthfulness and correctness, under penalty of perjury, by the signature of the affiant.

SEC. 11. Section 2107 of the Elections Code is amended to read:

2107. (a) Except as provided in subdivision (b), the county elections official shall accept affidavits of registration at all times except during the 14 28 days immediately preceding any election, when registration shall cease for that election as to electors residing in the territory within which the election is to be held except as provided in Article 4.5 (commencing with Section 2170) of Chapter 2 of Division 2. Transfers of registration for an election may be made from one precinct to another precinct in the same county at any time when registration is in progress in the precinct to which the elector seeks to transfer.

(b) The county elections official shall accept an affidavit of registration executed as part of a voter registration card in the forthcoming election if the
affidavit is executed on or before the 15th 29th day prior to the election, and if any of the following apply:

(1) The affidavit is postmarked on or before the 15th 29th day prior to the election and received by mail by the county elections official.

(2) The affidavit is submitted to the Department of Motor Vehicles or accepted by any other public agency designated as a voter registration agency pursuant to the National Voter Registration Act of 1993 (42 U.S.C. Sec. 1973gg) on or before the 29th day prior to the election.

(3) The affidavit is delivered to the county elections official by means other than those described in paragraphs (2) (1) and (2) on or before the 15th 29th day prior to the election.

SEC. 12. Section 2119 of the Elections Code is amended to read:

2119. (a) In lieu of executing a new affidavit of registration for a change of address within the county the county elections official shall accept a notice or letter of the change of address signed by a voter as he or she is registered.

(b) The county elections official shall accept a notification for the forthcoming election and shall change the address on the voter’s affidavit of registration accordingly if the notification is executed on or before the 15th 29th day prior to the election and if any of the following apply:

(1) The notification is postmarked on or before the 15th 29th day prior to the election and received by mail by the county elections official.

(2) The notification is submitted to the Department of Motor Vehicles or accepted by any other public agency designated as a voter registration agency pursuant to the National Voter Registration Act of 1993 (42 U.S.C. Sec. 1973gg) on or before the 29th day prior to the election.

(3) The notification is delivered to the county elections official by means other than those described in paragraphs (2) (1) and (2) on or before the 14th 29th day prior to the election.

SEC. 13. Section 2154 of the Elections Code is amended to read:

2154. In the event that the county elections official receives an affidavit of registration that does not include portions of the information for which space is provided, the county elections official shall apply the following rebuttable presumptions:

(a) If no middle name or initial is shown, it shall be presumed that none exists.

(b) If no party affiliation is shown, it shall be presumed that the affiant has no party affiliation.

(c) If no execution date is shown, it shall be presumed that the affidavit was executed on or before the 15th 29th day prior to the election, provided that (1) the affidavit is received by the county elections official on or before the 15th 29th day prior to the election, or (2) the affidavit is postmarked on or before the 15th 29th day prior to the election and received by mail by the county elections official.

(d) If the affiant fails to identify his or her state of birth within the United States, it shall be presumed that the affiant was born in a state or territory of the United States if the birthplace of the affiant is shown as “United States,” “U.S.A.,” or other recognizable term designating the United States.

SEC. 14. Section 2155 of the Elections Code is amended to read:
2155. Upon receipt of a properly executed affidavit of registration or address correction notice or letter pursuant to Section 2119, Article 2 (commencing with Section 2220), or the National Voter Registration Act of 1993 (42 U.S.C. Sec. 1973gg), the county elections official shall send the voter a voter notification by nonforwardable, first-class mail, address correction requested. The voter notification shall be substantially in the following form:

VOTER NOTIFICATION

You are registered to vote. This card is being sent as a notification of:

1. Your recently completed affidavit of registration,

   OR,

2. A correction to your registration because of an official notice that you have moved. If your residence address has not changed or if your move is temporary, please call or write the county elections official immediately.

You may vote in any election held 15 or more days after the date shown on the reverse side of this card:

Your name will appear on the index kept at the polls.

(Signature of Voter)

SEC. 15. Section 9094 of the Elections Code is amended to read:

9094. (a) The Secretary of State shall mail ballot pamphlets to voters, in those instances in which the county clerk elections official uses data processing equipment to store the information set forth in the affidavits of registration, before the election at which measures contained in the ballot pamphlet are to be voted on unless a voter has registered fewer than 29 days before the election provided the voter has registered more than 28 days prior to the election. The mailing shall commence not less than 40 days before the election and shall be completed no later than 21 days before the election for those voters who registered on or before the 60th day before the election. The Secretary of State shall mail one copy of the ballot pamphlet to each registered voter at the postal address stated on the voter’s affidavit of registration, or the Secretary of State may mail only one ballot pamphlet to two or more registered voters having the same surname and the same postal address.

(b) In those instances in which the county clerk elections official does not utilize data processing equipment to store the information set forth in the affidavits of registration, the Secretary of State shall furnish ballot pamphlets to the county clerk elections official not less than 45 days before the election at which measures contained in the ballot pamphlet are to be voted on and the county clerk shall mail ballot pamphlets to voters, on the same dates and in the same manner provided by subdivision (a).

(c) The Secretary of State shall provide for the mailing of ballot pamphlets to voters registering after the 60th day before the election and before the 28th day before the election, by either: (I) mailing in the manner as provided in subdivision (a), or (2) requiring the county clerk elections official to mail ballot pamphlets to those voters registering in the county after the 60th day before the election and before the 28th day before the election pursuant to the provisions of this section. The second mailing of ballot pamphlets shall be completed no later
than 10 days before the election. The county clerk elections official shall mail a ballot pamphlet to any person requesting a ballot pamphlet. Three copies, to be supplied by the Secretary of State, shall be kept at every polling place, while an election is in progress, so that they may be freely consulted by the voters, including voters registering or reregistering on election day in accordance with Article 4.5 (commencing with Section 2170) of Chapter 2 of Division 2.

SEC. 16. Section 13303 of the Elections Code is amended to read:

13303. (a) For each election, each appropriate elections official shall cause to be printed, on plain white paper or tinted paper, without watermark, at least as many copies of the form of ballot provided for use in each voting precinct as there are voters in the precinct. These copies shall be designated “sample ballot” upon their face and shall be identical to the official ballots used in the election, except as otherwise provided by law. A sample ballot shall be mailed, postage prepaid, not more than 40 nor less than 21 days before the election to each voter who is registered at least 29 days prior to the election.

(b) The elections official shall send notice of the polling place to each voter with the sample ballot. Only official matter shall be sent out with the sample ballot as provided by law.

(c) The elections official shall send notice of the polling place to each voter who registered after the 29th day prior to the election and is eligible to participate in the election. The notice shall also include information as to where the voter can obtain a sample ballot and a ballot pamphlet prior to the election; a statement indicating that those documents will be available at the polling place at the time of the election; and the address of the Secretary of State’s website and, if applicable, of the county website where a sample ballot may be viewed.

ARTICLE 6. FUNDING FOR ADDITIONAL ELECTION DAY PERSONNEL

SEC. 17. Section 2131 is added to the Elections Code, to read:

2131. (a) The Election Day Registration Fund is hereby established in the State Treasury. The fund is a special fund created for the purpose of assisting elections officials in implementing the provisions of this act, including, but not limited to, training and providing additional personnel to conduct registration on election days, providing additional voter registration materials and expanding voter outreach programs.

(b) Notwithstanding Section 13340 of the Government Code, the sum of six million dollars ($6,000,000), adjusted annually to reflect increases in the cost of living, shall be continuously appropriated from the General Fund to the Election Day Registration Fund without regard to fiscal year for the purposes of this act.

(c) On July 1 of each year the State Controller shall transfer from the General Fund to the Election Day Registration Fund the sum of six million dollars ($6,000,000), along with any cost-of-living increases. Notwithstanding Section 13340 of the Government Code, all funds in the Election Day Registration Fund shall be continuously appropriated to the Secretary of State without regard to fiscal year to be expended for the purposes of the act.

(d) Funds deposited in the Election Day Registration Fund are not otherwise subject to appropriation by the Legislature and, notwithstanding any other provision of law, may be expended by the Secretary of State without regard to fiscal year and shall not revert to any other fund. Notwithstanding any other
provision of law, interest earned by the fund shall accrue only to the fund and may be expended only for the purposes of the act.

(e) Moneys deposited in the Election Day Registration Fund shall be distributed annually by the Secretary of State to counties to cover the costs of implementing the provisions of this act, including the cost of providing and training additional personnel to conduct election day voter registration, creating additional voter registration materials and expanding voter outreach programs. Such moneys shall be allocated using a fair and equitable distribution formula that gives priority to the actual expenses of providing the additional personnel required by this act. All funds transferred to the Election Day Registration Fund shall be distributed to the counties for use as specified in this act; no part of these funds shall be used by the Secretary of State to administer the allocation process.

(f) Elections officials receiving moneys from the Election Day Registration Fund shall submit an annual report to the Secretary of State which identifies how those moneys were used, including the number of personnel added to conduct voter registration and a description of any voter outreach efforts implemented as a result of the funding.

ARTICLE 7.

SEC. 18. LIBERAL CONSTRUCTION. The provisions of this act shall be liberally construed to effectuate its purpose of allowing and facilitating voter registration and voter reregistration on election day.

ARTICLE 8.

SEC. 19. AMENDMENTS. This act may be amended to further its purpose by statute, passed in each house, two-thirds of the Legislature concurring, and signed by the Governor. For purposes of this section, a statute will not be deemed to further the purposes of the act if it eliminates or creates significant impediments to election day registration or reregistration. However, it is not the intent of this section to preclude changes in registration procedure that are the result of changes in technology, provided those changes are intended to facilitate the registration process and increase the number of eligible voters who register to vote. Notwithstanding the above, any of the sections contained in Article 5 of this act may be amended by statute, passed by majority vote of each house, and signed by the Governor.

ARTICLE 9.

SEC. 20. SEVERABILITY. In the event that any section or provision of this act, or the application thereof to any person or circumstances, is held invalid, it is the intent of the voters that the remaining sections of the act continue in full force and effect, and to this end the provisions of the act are severable.
LIST OF OFFICERS
## LIST OF OFFICERS

### 2002

**STATE CAPITOL AND OTHER BUILDINGS**

Sacramento 95814

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<thead>
<tr>
<th>Name</th>
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<tr>
<td>Gray Davis</td>
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<td>Diane F. Boyer-Vine</td>
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**OFFICE OF GOVERNOR**

Lynn Schenk.................................. Chief Aide & Senior Counsel
Michael Yamaki.................................. Appointments Secretary
Burt Pines...................................... Judicial Appointments Secretary
Susan Kennedy.................................. Cabinet Secretary
Barry P. Goode.................................. Legal Affairs Secretary
Mike Gotch...................................... Legislative Secretary
Steve Maviglio.................................. Press Secretary
Megan Egoscue.................................. Director of Scheduling
Oliver Phillips.................................. Director of Communications
Tal Finney (Acting).................................. Director of Planning & Research
Ed Emerson...................................... Director of Advance
Trish Fontana.................................. Director of Special Projects
Michael Flores.................................. Secretary of Foreign Affairs & Director of Administration & Protocol
Kathleen Connell (Controller)................. Ex-Officio Member

Offices: State Capitol, Sacramento 95814

**STATE BOARD OF EQUALIZATION**

450 N Street, Sacramento 95814

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## LEGISLATIVE DEPARTMENT

### UNITED STATES SENATORS

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### REPRESENTATIVES IN CONGRESS

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MEMBERS OF THE ASSEMBLY—Continued

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OFFICERS OF THE ASSEMBLY

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<td>Wilson, E. Dotson</td>
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<td>State Capitol, Room 3196, Sacramento 95814</td>
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STATE JUDICIAL DEPARTMENT

SUPREME COURT JUSTICES AND OFFICERS

Terms of Court

Sessions of Court are held at San Francisco, Los Angeles and Sacramento

JUSTICES

Hon. Ronald M. George ................................................................. Chief Justice
Hon. Stanley Mosk ............................................................. Associate Justice
Hon. Kathryn M. Werdegar .................................................. Associate Justice
Hon. Joyce L. Kennard ......................................................... Associate Justice
Hon. Ming W. Chin ................................................................. Associate Justice
Hon. Marvin R. Baxter ......................................................... Associate Justice
Hon. Janice R. Brown ........................................................ Associate Justice
Frederick K. Ohlrich .......................................................... Clerk/Administrator

COURTS OF APPEAL

FIRST APPELLATE DISTRICT

DIVISION ONE

Hon. James J. Marciano .......................................................... Presiding Justice
Hon. Douglas E. Swager .................................................. Associate Justice
Hon. William D. Stein ......................................................... Associate Justice

DIVISION TWO

Hon. J. Anthony Kline ........................................................ Presiding Justice
Hon. James R. Lambden .................................................. Associate Justice
Hon. Paul R. Haerle .......................................................... Associate Justice
Hon. Ignazio J. Ruvolo ......................................................... Associate Justice

DIVISION THREE

Hon. William R. McGuiness ........................................... Acting Admin. Presiding Justice
Hon. Joanne C. Parilli .................................................. Associate Justice
Hon. Stuart R. Poliak .......................................................... Associate Justice
Hon. Carol A. Corrigan ......................................................... Associate Justice

DIVISION FOUR

Vacant ................................................................. Admin. Presiding Justice
Hon. Laurence D. Kay .................................................. Associate Justice
Hon. Timothy A. Reardon .................................................. Associate Justice
Hon. Patricia K. Sepulveda .................................................. Associate Justice
Hon. Maria P. Rivera .......................................................... Associate Justice

DIVISION FIVE

Hon. Barbara J.R. Jones .......................................................... Presiding Justice
Hon. Lawrence T. Stevens .................................................. Associate Justice
Hon. Mark B. Simons .......................................................... Associate Justice
Hon. Linda M. Gemello .......................................................... Associate Justice
Diana Herbert .......................................................... Clerk/Administrator

350 McAllister Street, San Francisco 94102

SECOND APPELLATE DISTRICT

DIVISION ONE

Hon. Vaino Spencer .......................................................... Presiding Justice
Hon. Miriam Vogel .......................................................... Associate Justice
Hon. Robert M. Mallano .................................................. Associate Justice
Hon. Reuben A. Ortega .......................................................... Associate Justice

300 So. Spring St., 2nd Floor, Los Angeles 90013

DIVISION TWO

Hon. Roger Boren .......................................................... Presiding Justice
Hon. Michael G. Nott .......................................................... Associate Justice
Hon. Judith M. Ashmann .................................................. Associate Justice
Hon. Kathryn Doi Todd .................................................. Associate Justice

300 So. Spring St., 2nd Floor, Los Angeles 90013
### DIVISION THREE

Hon. Joan Dempsey Klein ......................................................... Presiding Justice  
Hon. Richard D. Aldrich ........................................................... Associate Justice  
Hon. Patti S. Kitching .............................................................. Associate Justice  

300 So. Spring St., 2nd Floor, Los Angeles 90013

### DIVISION FOUR

Hon. Charles S. Vogel .............................................................. Presiding Justice  
Hon. Norman L. Epstein .......................................................... Associate Justice  
Hon. J. Gary Hastings .............................................................. Associate Justice  
Hon. Daniel A. Curry .............................................................. Associate Justice  

300 So. Spring St., 2nd Floor, Los Angeles 90013

### DIVISION FIVE

Hon. Paul Turner ................................................................. Presiding Justice  
Hon. Orville A. Armstrong ..................................................... Associate Justice  
Hon. Margaret M. Grignon ..................................................... Associate Justice  
Hon. Richard M. Mosk ............................................................ Associate Justice  

300 So. Spring St., 2nd Floor, Los Angeles 90013

### DIVISION SIX

Hon. Arthur Gilbert .............................................................. Presiding Justice  
Hon. Steven Z. Perren ............................................................. Associate Justice  
Hon. Kenneth R. Yegan .......................................................... Associate Justice  
Hon. Paul H. Coffee ............................................................... Associate Justice  

200 East Santa Clara St., Ventura 93001

### DIVISION SEVEN

Hon. Mildred L. Lillie .............................................................. Presiding Justice  
Hon. Earl Johnson, Jr. ............................................................. Associate Justice  
Hon. Fred Woods ................................................................. Associate Justice  
Hon. Dennis Perluss .............................................................. Associate Justice  
Joseph Lane ........................................................................... Clerk  

300 So. Spring St., 2nd Floor, Los Angeles 90013

### THIRD APPELLATE DISTRICT

Hon. Arthur G. Scotland ....................................................... Presiding Justice  
Hon. Coleman A. Blease ......................................................... Associate Justice  
Hon. Consuelo M. Callahan ....................................................... Associate Justice  
Hon. Richard M. Sims III ......................................................... Associate Justice  
Hon. Rodney Davis ................................................................. Associate Justice  
Hon. George W. Nicholson ...................................................... Associate Justice  
Hon. Vance W. Raye ............................................................... Associate Justice  
Hon. Fred K. Morrison ............................................................. Associate Justice  
Hon. Daniel M. Kolkey ............................................................ Associate Justice  
Hon. Harry Hail ....................................................................... Associate Justice  
Hon. Ronald B. Robie ............................................................. Associate Justice  
Robert L. Liston ..................................................................... Clerk  

914 Capitol Mall, Sacramento 95814

### FOURTH APPELLATE DISTRICT

### DIVISION ONE

Hon. Daniel J. Kremer ............................................................ Presiding Justice  
Hon. Judith L. Haller ............................................................... Associate Justice  
Hon. Judith McConnell ............................................................ Associate Justice  
Hon. Alex C. McDonald ............................................................ Associate Justice  
Hon. Patricia D. Benke ............................................................ Associate Justice  
Hon. Richard D. Huffman ....................................................... Associate Justice  
Hon. James A. McIntyre .......................................................... Associate Justice  
Hon. Gilbert Nares ................................................................. Associate Justice  
Hon. Terry B. O’Rourke ............................................................ Associate Justice  
Stephen M. Kelly .................................................................. Clerk  

750 B St., Suite 300, San Diego 92101
DIVISION TWO

Hon. Manuel A. Ramirez ................................................................. Presiding Justice
Hon. Barton C. Gaut ................................................................. Senior Justice
Hon. Thomas E. Hollenhorst .................................................... Associate Justice
Hon. Betty Ann Richli .............................................................. Associate Justice
Hon. Art W. McKinster ............................................................. Associate Justice
Hon. James Ward ................................................................. Associate Justice
    Henry Espinoza ................................................................. Assistant Clerk Administrator

3389 12th St., Riverside 92501

DIVISION THREE

Hon. David G. Sills ................................................................. Presiding Justice
Hon. Richard D. Fybel ............................................................ Associate Justice
Hon. Kathleen E. O’Leary ........................................................ Associate Justice
Hon. Eileen C. Moore ............................................................. Associate Justice
Hon. William F. Rylaarsdam ................................................... Associate Justice
Hon. William W. Bedsworth .................................................. Associate Justice
Hon. Richard M. Aronson ....................................................... Associate Justice

925 No. Spurgeon St., Santa Ana 92701

FIFTH APPELLATE DISTRICT

Hon. James A. Ardaiz ............................................................ Presiding Justice
Hon. Herbert Levy ............................................................... Justice
Hon. Dennis A. Cornell ........................................................ Justice
Hon. Nikolas J. Dibiaso ........................................................ Justice
Hon. Steven M. Vartabedian ................................................... Justice
Hon. James F. Thaxter ........................................................ Justice
Hon. Thomas A. Harris ........................................................ Justice
Hon. Timothy S. Buckley ........................................................ Justice
Hon. Rebecca A. Wiseman ..................................................... Justice
    Eve Sproule ................................................................. Administrator-Clerk

2525 Capitol Street, Fresno 93721

SIXTH APPELLATE DISTRICT

Hon. Christopher C. Cottle .................................................. Presiding Justice
Hon. Patricia Bamattre-Manoukian ......................................... Associate Justice
Hon. Franklin D. Elia ............................................................ Associate Justice
Hon. Eugene M. Premo ........................................................ Associate Justice
Hon. William M. Wunderlich ................................................ Associate Justice
Hon. Nathan D. Mihara ........................................................ Associate Justice
    Michael J. Yerly ............................................................ Clerk

333 West Santa Clara Street, Suite 1060, San Jose 95113

PUBLIC UTILITIES COMMISSION

Loretta Lynch ................................................................. President
Michael R. Peevey ............................................................ Commissioner
Carl Wood ................................................................. Commissioner
Henry M. Duque ............................................................ Commissioner
Geoffrey Brown ............................................................ Commissioner
Wesley M. Franklin ........................................................ Executive Director

WORKERS’ COMPENSATION APPEALS BOARD

Merle Rabine ................................................................. Chairperson
Frank Brass ................................................................. Member
James Cuneo ................................................................. Member
William O’Brien ............................................................ Member
Janis J. Murray ............................................................... Member
TABLE OF LAWS ENACTED

TABLE OF RESOLUTIONS AND PROPOSED CONSTITUTIONAL AMENDMENTS ADOPTED BY THE LEGISLATURE

2002

2001–02 REGULAR SESSION
2001–02 SECOND EXTRAORDINARY SESSION
2001–02 THIRD EXTRAORDINARY SESSION
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**Notes:**
- The table lists the number of the bill, the year it was introduced, and the names of the coauthors.
- The bills are divided into two categories: those introduced in 2002 and those introduced in 2001.
- The coauthors are listed for each bill, often including the names of both the principal coauthor and additional coauthors.
- The table provides a comprehensive list of bills introduced during the 2002 session of the California legislature.

**Keywords:**
- Legislation
- California legislature
- Assembly Bill
- Senate Bill
- Coauthor
- Senators
- Assembly Members
- Principal Coauthor
### TABLE OF LAWS ENACTED—Continued
#### 2002

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2002
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# TABLE OF RESOLUTION ADOPTED BY THE LEGISLATURE

## 2002

2001–02 Third Extraordinary Session

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STATUTES OF CALIFORNIA

2001–02

REGULAR SESSION

2002 CHAPTERS
An act to amend Sections 3517.61, 18903, 19056.5, 19141, 19142, 19771, 19774, 19786, 19798, 19816.2, 19827, 19841, 19994, 19994.1, 19994.2, 19997, 19997.3, 19997.4, 19997.5, 19997.6, 19997.7, 19997.8, 19997.11, 19997.13, 20677.2, 20677.3, 20683.1, 20683.2, 20687, 20687.3, 22790 of, to add Section 21363.4 to, to add and repeal Sections 20035.1 and 20687.4 of, to repeal Sections 18523.1, 19170.1, 19173.4, 19175.7, 19818.7, 19818.11, and 19826.1 of, and to repeal Article 2.1 (commencing with Section 19817) of Chapter 1 of Part 2.6 of Division 5 of Title 2 of, the Government Code, and to amend Section 1808.4 of the Vehicle Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor January 15, 2002. Filed with Secretary of State January 16, 2002.]

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

SECTION 1. The Legislature finds and declares that the purpose of this act is to adopt an agreement pursuant to Section 3517 of the Government Code entered into by the state employer and State Bargaining Unit 6, the California Correctional Peace Officers Association.

SEC. 2. The provisions of the memorandum of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and State Bargaining Unit 6, the California Correctional Peace Officers Association, and that require the expenditure of funds, are hereby approved for the purposes of Section 3517.6 of the Government Code.

SEC. 3. The provisions of the memorandum of understanding approved by Section 2 of this act that are scheduled to take effect on or after July 1, 2001, and that require the expenditure of funds shall not take effect unless funds for these provisions are specifically appropriated by the Legislature. If funds for these provisions are not specifically appropriated by the Legislature, the state employer and the affected employee organization shall meet and confer to renegotiate the affected provisions.

SEC. 4. Notwithstanding Section 3517.6 of the Government Code, the provisions of any memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.
SEC. 5. Section 3517.61 of the Government Code is amended to read:

3517.61. Notwithstanding Section 3517.6, for state employees in State Bargaining Unit 6, in any case where the provisions of Section 70031 of the Education Code, subdivision (i) of Section 3513, or Section 14876, 18714, 19080.5, 19100, 19143, 19261, 19818.16, 19819.1, 19820, 19822, 19824, 19826, 19827, 19828, 19829, 19830, 19831, 19832, 19833, 19834, 19835, 19836, 19837, 19838, 19839, 19840, 19841, 19842, 19843, 19844, 19845, 19846, 19847, 19848, 19849, 19849.1, 19849.4, 19850.1, 19850.2, 19850.3, 19850.4, 19850.5, 19850.6, 19851, 19853, 19854, 19856, 19856.1, 19858.1, 19858.2, 19859, 19860, 19861, 19862, 19862.1, 19863, 19863.1, 19864, 19866, 19869, 19870, 19871, 19871.1, 19872, 19873, 19874, 19875, 19876, 19877, 19877.1, 19878, 19879, 19880, 19880.1, 19881, 19882, 19883, 19884, 19885, 19887, 19887.1, 19887.2, 19888, 19990, 19991, 19991.1, 19991.2, 19991.3, 19991.4, 19991.5, 19991.6, 19991.7, 19992, 19992.1, 19992.2, 19992.3, 19992.4, 19993, 19994.1, 19994.2, 19994.3, 19994.4 19995, 19995.1, 19995.2, 19995.3, 19996.1, 19996.2, 19998, 19998.1, 20796, 21600, 21602, 21604, 21605, 22825, or 22825.1 are in conflict with the provisions of a memorandum of understanding, the memorandum of understanding shall be controlling without further legislative action. In any case where the provisions of Section 19997.2, 19997.3, 19997.8, 19997.9, 19997.10, 19997.11, 19997.12, 19997.13, or 19997.14 are in conflict with the provisions of a memorandum of understanding, the terms of the memorandum of understanding shall be controlling unless the State Personnel Board finds those terms to the inconsistent with merit employment principles as provided for by Article VII of the California Constitution. Where this finding is made, the provisions of the Government Code shall prevail until those affected sections of the memorandum of understanding are renegotiated to resolve the inconsistency. If any provision of the memorandum of understanding requires the expenditure of funds, those provisions of the memorandum of understanding shall not become effective unless approved by the Legislature in the annual Budget Act. If any provision of the memorandum of understanding requires legislative action to permit its implementation by amendment of any section not cited above, those provisions of the memorandum of understanding shall not become effective unless approved by the Legislature.


SEC. 7. Section 18903 of the Government Code is amended to read:

18903. (a) For each class there shall be maintained a general reemployment list consisting of the names of all persons who have
occupied positions with probationary or permanent status in the class and who have been legally laid off or demoted in lieu of layoff.

(b) Within one year from the date of his or her resignation in good standing, or his or her voluntary demotion, the name of an employee who had probationary or permanent status may be placed on the general reemployment list with the consent of the appointing power and the board. The general reemployment list may also contain the names of persons placed thereon by the board in accordance with other provisions of this part.

SEC. 8. Section 19056.5 of the Government Code is amended to read:

19056.5. Notwithstanding any other provision in this part, if the appointment is to be made from a general reemployment list, the names of the three persons with the highest standing on the list shall be certified to the appointing power.

SEC. 9. Section 19141 of the Government Code is amended to read:

19141. (a) This section applies only to a permanent employee, or an employee who previously had permanent status and who, since that permanent status, has had no break in the continuity of his or her state service due to a permanent separation. As used in this section, "former position" is defined as in Section 18522, or, if the appointing power to which reinstatement is to be made and the employee agree, a vacant position in any department, commission, or state agency for which he or she is qualified at substantially the same level.

(b) Within the periods of time specified below, an employee who vacates a civil service position to accept an appointment to an exempt position shall be reinstated to his or her former position at the termination either by the employee or appointing power of the exempt appointment, provided he or she (1) accepted the appointment without a break in the continuity of state service, and (2) requests in writing reinstatement of the appointing power of his or her former position within 10 working days after the effective date of the termination.

(c) The reinstatement may be requested by the employee only within the following periods of time:

(1) At any time after the effective date of the exempt appointment if the employee was appointed under one of the following:

(A) Subdivision (a), (b), (c), (d), (e), (f), (g), or (m) of Section 4 of Article VII of the California Constitution.
(B) Section 2.1 of Article IX of the California Constitution.
(C) Section 22 of Article XX of the California Constitution.
(D) To an exempt position under the same appointing power as the former position even though a shorter period of time may be otherwise specified for that appointment.
(2) Within six months after the effective date of the exempt appointment if appointed under subdivision (h), (i), (k), or (l) of Section 4 of Article VII of the California Constitution.

(3) Within four years after the effective date of an exempt appointment if appointed under any other authority.

(d) An employee who vacates his or her civil service position to accept an assignment as a member, inmate, or patient helper under subdivision (j) of Section 4 of Article VII of the California Constitution shall not have a right to reinstatement.

(e) An employee who is serving under an exempt appointment retains a right of reinstatement when he or she accepts an extension of that exempt appointment or accepts a new exempt appointment, provided the extension or new appointment is made within the specified reinstatement time limit and there is no break in the continuity of state service. The period for which that right is retained is for the period applicable to the extended or new exempt appointment as if that appointment had been made on the date of the initial exempt appointment.

(f) When an employee exercises his or her right of reinstatement and returns to his or her former position, the service while under an exempt appointment shall be deemed to be time served in the former position for the purpose of determining his or her seniority and eligibility for merit salary increases.

(g) If the termination of an exempt appointment is for a reason contained in Section 19997 and the employee does not have a right to reinstatement, he or she shall have his or her name placed on the departmental and general reemployment lists for the class of his or her former position.

SEC. 10. Section 19142 of the Government Code is amended to read:

19142. (a) Every person accepts and holds a position in the state civil service subject to mandatory reinstatement of another person.

(b) Upon reinstatement of a person any necessary separations are effected under the provisions of Section 19997.3 governing layoff and demotion except that (A) an employee who is not to be separated from state service need not receive advance notification as provided in Section 19997.13, and (B) seniority shall not be counted as provided in Section 19997.3 when this would result in the layoff of the person who has the reinstatement right. Under that circumstance, qualifying service in classes at substantially the same or higher salary level is the only state service that shall be counted for purposes of determining who is to be separated.

SEC. 11. Section 19170.1 of the Government Code is repealed.

SEC. 12. Section 19173.4 of the Government Code is repealed.
SEC. 13. Section 19175.7 of the Government Code is repealed.
SEC. 14. Section 19771 of the Government Code is amended to read:

19771. (a) Upon presentation of a copy of orders for active duty in the Armed Forces, the National Guard, or the Naval Militia, the appointing power shall grant a military leave of absence for the period of active duty specified in the orders, but not to exceed four years for a permanent, probationary, or exempt employee, or for the remainder of a limited-term employee’s appointment or a temporary employee’s appointment.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 15. Section 19774 of the Government Code is amended to read:

19774. (a) Employee members of reserve military units and the National Guard required to attend scheduled reserve drill periods or perform other inactive duty reserve obligations shall be granted military leave of absence without pay as provided by federal law.

(b) Notwithstanding subdivision (a) or any other provision of law, employee members may, at their option, elect to use vacation time or accumulated compensatory time off to attend scheduled reserve drill periods or perform other inactive duty reserve obligations.

(c) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 16. Section 19786 of the Government Code is amended to read:

19786. (a) When a civil service employee has been reinstated after military service in accordance with Section 19780, and any question arises relative to his or her ability or inability for any reason arising out of the military service to perform the duties of the position to which he or she has been reinstated, the board shall, upon the request of the appointing power or of the employee, hear the matter and may on its own motion or at the request of either party take any and all necessary testimony of every nature necessary to a decision on the question.
(b) If the board finds that the employee is not able for any reason arising out of the military service to carry out the usual duties of the position he or she then holds, it shall order the employee placed in a position in which the board finds he or she is capable of performing the duties in the same class or a comparable class in the same or any other state department, bureau, board, commission, or office under this part and the rules of the board covering transfer of an employee from a position under the jurisdiction of one appointing power to a position under the jurisdiction of another appointing power, without the consent of the appointing powers, where a vacancy may be made available to him or her under this part and the rules of the board, but in no event shall the transfer constitute a promotion within the meaning of this part and the rules of the board.

(c) If a layoff is made necessary to place a civil service employee in a position in the same class or a comparable class in accordance with this section, the layoff shall be made under Section 19997.3, provided that no civil service employee who was employed prior to September 16, 1940, shall be laid off as a result of the placing of an employee in the same class or a comparable class under this section.

(d) The board may order the civil service employee reinstated to the department, bureau, board, commission, or office from which he or she was transferred either upon request of the employee or the appointing power from which transferred. The reinstatement may be made after a hearing as provided in this section if the board finds that the employee is at the time of the hearing able to perform the duties of the position.

SEC. 17. Section 19798 of the Government Code is amended to read:

19798. In establishing order and subdivisions of layoff and reemployment, the board, when it finds past discriminatory hiring practices, shall by rule, adopt a process that provides that the composition of the affected workforce will be the same after the completion of a layoff, as it was before the layoff procedure was implemented.

SEC. 18. Section 19816.2 of the Government Code is amended to read:

19816.2. Notwithstanding any other provision of this part, regulations and other provisions pertaining to the layoff or demotion in lieu of layoff of civil service employees that are established or agreed to by the department shall be subject to review by the State Personnel Board for consistency with merit employment principles as provided for by Article VII of the California Constitution.

SEC. 19. Article 2.1 (commencing with Section 19817) of Chapter 1 of Part 2.6 of Division 5 of Title 2 of the Government Code is repealed.

SEC. 20. Section 19818.7 of the Government Code is repealed.
SEC. 21. Section 19818.11 of the Government Code is repealed.
SEC. 22. Section 19826.1 of the Government Code is repealed.
SEC. 23. Section 19827 of the Government Code is amended to read:

19827. (a) (1) Notwithstanding any other provision of law to the contrary, in order to recruit and retain the highest qualified employees, the state shall pay sworn members of the California Highway Patrol who are rank-and-file members of State Bargaining Unit 5 the estimated average total compensation for each corresponding rank for the Los Angeles Police Department, Los Angeles County Sheriff’s Office, San Diego Police Department, Oakland Police Department, and the San Francisco Police Department. Total compensation shall include base salary, educational incentive pay, physical performance pay, longevity pay, and retirement contributions made by the employer on behalf of the employee.

(2) The state and the exclusive representative shall jointly survey annually and calculate the estimated average total compensation based on projected average total compensation for the above-named departments as of July 1 of the year in which the survey is conducted. The state and the exclusive representative shall utilize the survey methodology outlined in the “Description of Survey Process Pursuant to Government Code 19827 Regarding the Recruitment and Retention of California Highway Patrol Officers” dated July 1, 2001, and maintained as a permanent agreement between the state and the exclusive representative.

(3) Any increase in total compensation resulting from this section shall be implemented through a memorandum of understanding negotiated pursuant to the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1). Notwithstanding the foregoing, failure of the parties to reach agreement for a memorandum of understanding pursuant to the Ralph C. Dills Act shall not relieve the state of the duty to compensate sworn represented members of the California Highway Patrol in accordance with the formula set forth in this section.

(4) The total compensation for represented sworn members of the California Highway Patrol may deviate from the survey results by mutual agreement between the exclusive representative and the state pursuant to the collective bargaining process.

(5) If the provisions of this subdivision are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the
provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(b) When determining compensation for state excluded sworn classifications of the California Highway Patrol, it is the policy of the state to consider total compensation for corresponding ranks within jurisdictions specified in subdivision (a), as well as other factors, including internal comparisons.

SEC. 24. Section 19841 of the Government Code is amended to read:

19841. (a) Notwithstanding Section 11030, whenever a state officer or employee is required by the appointing power because of a change in assignment, promotion, or other reason related to his or her duties to change his or her place of residence, the officer, agent, or employee shall receive his or her actual and necessary moving, traveling, lodging, and meal expenses incurred by him or her both before and after and by reason of the change of residence. The maximum allowances for these expenses shall be as follows: the costs of packing, transporting, and unpacking 11,000 pounds of household effects, traveling, lodging, and meal expenses for 60 days while locating a permanent residence, storage of household effects for 60 days, and additional miscellaneous allowances not in excess of two hundred dollars ($200). The maximum allowances may be exceeded where the director determines that the change of residence will result in unusual and unavoidable hardship for the officer or employee, and in those cases the director shall determine the maximum allowances to be received by the officer or employee.

(b) If a change of residence reasonably requires the sale of a residence or the settlement of an unexpired lease, the officer or employee may be reimbursed for any of the following expenses:

(1) The settlement of the unexpired lease to a maximum of one year. Upon the date of surrender of the premises by the employee who is the lessee, the rights and obligations of the parties to the lease shall be as determined by Section 1951.2 of the Civil Code.

The state shall be absolved of responsibility for an unexpired lease if the department determines the employee knew or reasonably should have known that a transfer involving a physical move was imminent before entering into the lease agreement.

(2) In the event of residence sale, reimbursement for brokerage and other related selling fees or charges, as determined by regulations of the department, customarily charged for like services in the locality where the residence is located.

(c) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of
understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 25. Section 19994 of the Government Code is amended to read:

19994. (a) When the state takes over and there is transferred to it a function from any other public agency, the department may determine the extent, if any, to which the employees employed by the other public agency on the date of transfer are entitled to have credited to them in the state civil service, seniority credits, accumulated sick leave, and accumulated vacation because of service with the former agency. Granting of seniority credit under this section is subject to review by the State Personnel Board pursuant to Section 19816.2.

(b) The department shall limit that determination to the time any transferred employees were employed in the specific function or a function substantially similar while in the former agency and the seniority credits and accumulated sick leave and accumulated vacation shall not exceed that to which each employee would be entitled if he or she had been continuously employed by the State of California. This section is applicable to any function heretofore transferred to the state, whether by state action or otherwise, as well as to any future transfers of a function to the state, whether by state action or otherwise.

SEC. 26. Section 19994.1 of the Government Code is amended to read:

19994.1. (a) An appointing power may transfer any employee under his or her jurisdiction: (1) to another position in the same class; or (2) from one location to another whether in the same position, or in a different position as specified above in (1) or in Section 19050.5.

(b) When a transfer under this section or Section 19050.5 reasonably requires an employee to change his or her place of residence, the appointing power shall give the employee, unless the employee waives this right, a written notice of transfer 60 days in advance of the effective date of the transfer. Unless the employee waives this right, the appointing power shall provide to the employee 60 days prior to the effective date of the transfer a written notice setting forth in clear and concise language the reasons why the employee is being transferred.

(c) If this section is in conflict with a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the memorandum of understanding requires the expenditure of funds, it shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 27. Section 19994.2 of the Government Code is amended to read:
19994.2. (a) When there are two or more employees in a class and an involuntary transfer is required to a position in the same class, or an appropriate class as designated by the State Personnel Board, in a location that reasonably requires an employee to change his or her place of residence, the department may determine the methods by which employees in the class or classes involved are to be selected for transfer. These methods may include seniority and other considerations.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 28. Section 19997 of the Government Code is amended to read:

19997. Whenever it is necessary because of lack of work or funds, or whenever it is advisable in the interests of economy, to reduce the staff of any state agency, the appointing power may lay off employees pursuant to this article and department rule. All layoff provisions and procedures established or agreed to under this article shall be subject to State Personnel Board review pursuant to Section 19816.2.

SEC. 29. Section 19997.3 of the Government Code is amended to read:

19997.3. (a) Layoff shall be made in accordance with the relative seniority of the employees in the class of layoff. In determining seniority scores, one point shall be allowed for each complete month of full-time state service regardless of when the service occurred. Department rules shall establish all of the following:

1. The extent to which seniority credits may be granted for less than full-time service.

2. The seniority credit to be granted for service in a class that has been abolished, combined, divided, or otherwise altered under the authority of Section 18802.

3. The basis for determining the sequence of layoff whenever the class and subdivision of layoff includes employees whose service is less than full time.

4. Any other matters as are necessary or advisable to the operation of this chapter.

(b) For professional, scientific, administrative, management, and executive classes, the department shall prescribe standards and methods by rule whereby employee efficiency shall be combined with seniority in determining the order of layoffs and the order of names on reemployment lists. These standards and methods may vary for different
classes, and shall take into consideration the needs of state service and practice in private industry and other public employment.

(c) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding incurs either present or future costs, or requires the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 30. Section 19997.4 of the Government Code is amended to read:

19997.4. (a) For the purposes of determining seniority pursuant to subdivision (a) of Section 19997.3, the term “state service” shall include all service that is exempt from state civil service.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 31. Section 19997.5 of the Government Code is amended to read:

19997.5. (a) Separations that are necessary by reason of reinstatement of an employee or employees after recognized military service as provided for in Section 19780 shall be made by layoff. In making these separations, the regular method of determining the order of layoff shall be used unless this would result in the layoff of an employee who has been reinstated in the class and subdivision of layoff under Section 19780, and in the retention of an employee who was appointed in the class and subdivision of layoff during the time that a reinstated employee was on military leave. Under these circumstances, seniority shall not be counted as provided in Section 19997.3. Instead, service in the subdivision of layoff that qualifies under Section 19997.3 for credit is the only state service that shall be counted.

Whenever such a layoff results in the demotion to a lower class of an employee who has been reinstated after recognized military service as provided in Section 19780, the resulting layoff, if any, in the lower class shall be made as though that reinstated employee had been in that lower class at the time he or she went on military leave.

Any layoff occurring within one year after reinstatement of an employee after recognized military service shall be presumed to have been necessary by reason of reinstatement of an employee or employees
under Section 19780 unless the department determines that the reason for layoff is clearly not related to the reinstatement.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 32. Section 19997.6 of the Government Code is amended to read:

19997.6. (a) A veteran, except a veteran who was reinstated from military leave, shall in the event of layoff receive seniority credit for recognized military service if the veteran entered the state service after discharge, the end of the national emergency, or the end of the state military emergency.

(b) Seniority credit for recognized military service shall be computed as if it were service in the class to which the employee was first given permanent civil service or exempt appointment after his or her entry into the state service following recognized military service.

(c) Seniority credit for recognized military service shall not exceed one year’s credit if the veteran had no state service prior to entering the military service.

(d) This section shall become operative on July 1, 1993.

SEC. 33. Section 19997.7 of the Government Code is amended to read:

19997.7. (a) Employees in the class under consideration, up to the number of positions to be abolished or discontinued, shall be laid off in the order as determined under this part. As between two or more of these employees who have the same score, veterans shall have preference in retention. Other ties shall be resolved according to department rule that shall take into consideration other matters of record before names are drawn by lot.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 34. Section 19997.8 of the Government Code is amended to read:

19997.8. (a) In lieu of being laid off an employee may elect demotion to: (1) any class with substantially the same or a lower
maximum salary in which he or she had served under permanent or probationary status, or (2) a class in the same line of work as the class of layoff, but of lesser responsibility, if a class is designated by the department. Whenever a demotion requires a layoff in the elected class, the seniority score for the demoted employee shall be recomputed in that class. The appointing power shall inform the employee in the notice of layoff of the classes to which he or she has the right to demote. To be considered for demotion in lieu of layoff an employee shall notify his or her appointing power in writing of his or her election not later than five calendar days after receiving notice of layoff.

(b) Demotions in lieu of layoff, and layoffs resulting therefrom, shall be governed by this article and shall be made within the subdivisions approved by the department for this purpose. These subdivisions need not be the same as those used to determine the area of layoff under Section 19997.2.

(c) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 35. Section 19997.11 of the Government Code is amended to read:

19997.11. (a) The names of employees to be laid off or demoted shall be placed upon the reemployment list for the subdivision, if such a subdivision was designated, upon the departmental reemployment list and upon the general reemployment list, for the class from which the employees were laid off or demoted. The department may also place these names upon the general reemployment list for any other appropriate classes as the department determines.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 36. Section 19997.13 of the Government Code is amended to read:

19997.13. (a) An employee compensated on a monthly basis shall be notified that he or she is to be laid off 30 days prior to the effective date of layoff and not more than 60 days after the date of the seniority computation. The notice of layoff shall be in writing and shall contain
the reason or reasons for the layoff. An employee to be laid off may elect
to accept this layoff prior to the effective date thereof.

(b) If the provisions of this section are in conflict with the provisions
of a memorandum of understanding reached pursuant to Section 3517.5,
the memorandum of understanding shall be controlling without further
legislative action, except that if the provisions of a memorandum of
understanding require the expenditure of funds, the provisions shall not
become effective unless approved by the Legislature in the annual
Budget Act.

SEC. 37. Section 20035.1 is added to the Government Code, to read:
20035.1. (a) For patrol members in State Bargaining Unit 5, patrol
members excepted from the definition of “state employee” in
subdivision (c) of Section 3513, and patrol members who are officers or
employees of the executive branch of state government who are not
members of the civil service, the member’s final compensation shall be
increased as follows:

(1) For a member who retires or dies on or after July 1, 2001, and prior
to July 1, 2004, the member’s final compensation for patrol service
subject to Section 21362.2 shall be increased by one-half of the normal
rate of contribution specified in subdivision (a) of Section 20681.

(2) For a member who retires or dies on or after July 1, 2004, and prior
to July 1, 2006, the member’s final compensation for patrol service
subject to Section 21362.2 shall be increased by the normal rate of
contribution specified in subdivision (a) of Section 20681.

(b) This section shall become inoperative on July 1, 2006, and as of
January 1, 2007, is repealed, unless a later enacted statute that is enacted
before January 1, 2007, deletes or extends the dates on which it becomes
inoperative and is repealed.

SEC. 38. Section 20677.2 of the Government Code is amended to
read:
20677.2. (a) Notwithstanding any provisions of Section 20677 to
the contrary, the normal rate of contribution shall be the rate specified
in this section for all of the following:

(1) State miscellaneous or state industrial members in State
Bargaining Unit 10, 12, 16, 18, or 19.

(2) State miscellaneous or state industrial members excepted from the
definition of “state employee” in subdivision (c) of Section 3513 of the
Government Code.

(3) State miscellaneous or state industrial members who are officers
or employees of the executive, legislative, or judicial branches of state
government who are not members of the civil service.

(b) (1) Subject to the provisions of subdivision (f), for a member
described in subdivision (a) whose service is not included in the federal
system, 3.5 percent of the compensation in excess of three hundred
seventeen dollars ($317) per month paid that member for service rendered during the period from August 31, 2001, to June 30, 2002, inclusive.

(2) Subject to the provisions of subdivision (f), for a member described in subdivision (a) whose service is not included in the federal system, 1 percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid that member for service rendered during the period from July 1, 2002, to June 30, 2003, inclusive.

(3) Subject to the provisions of subdivision (f), for a member described in subdivision (a) whose service has been included in the federal system, 2.5 percent of the compensation in excess of five hundred thirteen dollars ($513) per month paid that member for service rendered during the period from August 31, 2001, to June 30, 2002, inclusive.

(4) Subject to the provisions of subdivision (f), for a member described in subdivision (a) whose service has been included in the federal system, zero percent of the compensation in excess of five hundred thirteen dollars ($513) per month paid that member for service rendered during the period from July 1, 2002, to June 30, 2003, inclusive.

(c) Subject to the provisions of subdivision (f) and notwithstanding any provisions of Section 21073.7 to the contrary, a member who elects to become subject to the benefits prescribed in Section 21354.1 and who is subject to this section shall be subject to the normal rate of contribution set forth in this section.

(d) This section does not apply to members employed by the California State University or the University of California.

(e) This section does not apply to state miscellaneous or state industrial members who are subject to Section 21076.

(f) This section shall apply to state employees in State Bargaining Unit 10, 12, 16, 18, or 19. If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

(g) This section shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute that is enacted before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 39. Section 20677.3 of the Government Code is amended to read:
20677.3. (a) Notwithstanding any provisions of Section 20677 to the contrary, the normal rate of contribution for state miscellaneous or state industrial members in State Bargaining Unit 7 or 8 shall be the rate specified in this section.

(b) (1) Subject to the provisions of subdivision (f), for a member described in subdivision (a) whose service is not included in the federal system, the normal rate of contribution shall be 3.5 percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid that member for service rendered during the period from August 31, 2001, to June 30, 2002, inclusive.

(2) Subject to the provisions of subdivision (f), for a member described in subdivision (a) whose service is not included in the federal system, the normal rate of contribution shall be 1 percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid that member for service rendered during the period from July 1, 2002, to June 30, 2003, inclusive.

(3) Subject to the provisions of subdivision (f), for a member described in subdivision (a) whose service has been included in the federal system, the normal rate of contribution shall be 2.5 percent for the compensation in excess of five hundred thirteen dollars ($513) per month paid that member for service rendered during the period from August 31, 2001, to June 30, 2002, inclusive.

(4) Subject to the provisions of subdivision (f), for member described in subdivision (a) whose service has been included in the federal system, the normal rate of contribution shall be 0 percent for the compensation in excess of five hundred thirteen dollars ($513) per month paid that member for service rendered during the period from July 1, 2002, to June 30, 2003, inclusive.

(c) Subject to the provisions of subdivision (f) and notwithstanding any provisions of Section 21073.7 to the contrary, a member who elects to become subject to the benefits prescribed in Section 21354.1 and who is subject to this section shall be subject to the normal rate of contribution set forth in this section.

(d) This section does not apply to members employed by the California State University or the University of California.

(e) This section does not apply to state miscellaneous or state industrial members who are subject to Section 21076.

(f) This section shall apply to state employees in State Bargaining Unit 7 or 8. If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the
provisions may not become effective unless approved by the Legislature in the annual Budget Act.

(g) This section shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 40. Section 20683.1 of the Government Code is amended to read:

20683.1. (a) Notwithstanding any provisions of Section 20683 to the contrary, the normal rate of contribution shall be the rate specified in this section for all of the following:

(1) State safety members subject to Section 21369.1 in State Bargaining Unit 12, 16, 18, or 19.

(2) State safety members excepted from the definition of “state employee” in subdivision (c) of Section 3513.

(3) State safety members who are officers or employees of the executive branch of state government who are not members of the civil service.

(b) (1) Subject to the provisions of subdivision (e), from August 31, 2001, to June 30, 2002, inclusive, the normal rate of contribution for a member described in subdivision (a) whose service is not included in the federal system shall be 3.5 percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid that member for service rendered.

(2) Subject to the provisions of subdivision (e), from July 1, 2002, to June 30, 2003, inclusive, the normal rate of contribution for a member described in subdivision (a) whose service is not included in the federal system shall be 1 percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid that member for service rendered.

(3) Subject to the provisions of subdivision (e), from August 31, 2001, to June 30, 2002, inclusive, the normal rate of contribution for a member described in subdivision (a) whose service is included in the federal system shall be 3.5 percent of the compensation in excess of five hundred thirteen dollars ($513) per month paid that member for service rendered.

(4) Subject to the provisions of subdivision (e), from July 1, 2002, to June 30, 2003, inclusive, the normal rate of contribution for a member described in subdivision (a) whose service is included in the federal system shall be 1 percent of the compensation in excess of five hundred thirteen dollars ($513) per month paid that member for service rendered.

(c) This section does not apply to members employed by the California State University or the University of California.
(d) This section shall apply to state employees in State Bargaining Unit 12, 16, 18, or 19. If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

(e) This section shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute that is enacted before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 41. Section 20683.2 of the Government Code is amended to read:

20683.2. Notwithstanding any provisions of Section 20683 to the contrary, the normal rate of contribution for state safety members subject to Section 21369.1 in State Bargaining Unit 7 or 8 shall be the rate specified in this section.

(b) (1) Subject to the provisions of subdivision (e), from August 31, 2001, to June 30, 2002, inclusive, the normal rate of contribution for a member described in subdivision (a) whose service is not included in the federal system shall be 3.5 percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid that member for service rendered.

(2) Subject to the provisions of subdivision (e), from July 1, 2002, to June 30, 2003, inclusive, the normal rate of contribution for a member described in subdivision (a) whose service is not included in the federal system shall be 1 percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid that member for service rendered.

(3) Subject to the provisions of subdivision (e), from August 31, 2001, to June 30, 2002, inclusive, the normal rate of contribution for a member described in subdivision (a) whose service is included in the federal system shall be 3.5 percent of the compensation in excess of five hundred thirteen dollars ($513) per month paid that member for service rendered.

(4) Subject to the provisions of subdivision (e), from July 1, 2002, to June 30, 2003, inclusive, the normal rate of contribution for a member described in subdivision (a) whose service is included in the federal system shall be 1 percent of the compensation in excess of five hundred thirteen dollars ($513) per month paid that member for service rendered.

(c) This section does not apply to members employed by the California State University or the University of California.
(d) This section shall apply to state employees in State Bargaining Unit 7 or 8. If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

(e) This section shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 42. Section 20687 of the Government Code is amended to read:

20687. (a) The normal rate of contribution for state peace officer/firefighter members subject to Section 21363, 21363.1, 21363.3, or 21363.4 shall be 8 percent of the compensation in excess of two hundred thirty-eight dollars ($238) per month paid to those members.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(c) The Director of the Department of Personnel Administration may set a different normal rate of contribution for state peace officer/firefighter members in related managerial, supervisory, and confidential positions or officers or employees of the executive branch of state government who are not members of the civil service. The contribution rate change shall be effective as of the date indicated by the Director of the Department of Personnel Administration but shall be no earlier than the first day of the month following notification by the director to the board.

SEC. 43. Section 20687.3 of the Government Code is amended to read:

20687.3. (a) Notwithstanding Section 20687, the normal rate of contribution for state peace officer/firefighter members excepted from the definition of “state employee” in subdivision (c) of Section 3513, and state peace officer/firefighter members who are officers or employees of the executive or legislative branch of state government who are not members of the civil service is as follows:
(1) From August 31, 2001, to June 30, 2002, inclusive, for each peace officer/firefighter member subject to Section 21363.1, the normal rate of contribution shall be 5.5 percent of compensation in excess of the amount specified in subdivision (b).

(2) From July 1, 2002, to June 30, 2003, inclusive, for each peace officer/firefighter member subject to Section 21363.1, the normal rate of contribution shall be 3 percent of compensation in excess of the amount specified in subdivision (b).

(b) The normal rate of contribution, as applicable in subdivision (a), shall be applied to compensation in excess of the following amounts:

(1) For peace officer/firefighter members who are aligned, as determined by the Department of Personnel Administration, with State Bargaining Unit 6, eight hundred sixty-three dollars ($863) per month paid those members for services rendered.

(2) For peace officer/firefighter members who are aligned, as determined by the Department of Personnel Administration, with State Bargaining Unit 7, five hundred thirteen dollars ($513) per month paid those members for services rendered.

(3) For peace officer/firefighter members who are aligned as determined by the Department of Personnel Administration, with State Bargaining Unit 8 or who are employees of the legislative branch of state government, two hundred thirty-eight dollars ($238) per month paid those members for services rendered.

(c) This section shall not be applicable to members employed by the California State University or the University of California.

(d) This section shall become inoperative on July 1, 2003, and as of January 1, 2004, is repealed, at which time the members’ retirement contribution rates shall be restored to the levels specified in Section 20687.

(e) The amendments to this section enacted during the second year of the 2001–02 Regular Session shall be operative on August 31, 2001.

SEC. 44. Section 20687.4 is added to the Government Code, to read:

20687.4. (a) Notwithstanding any provisions of Section 20687 or 20687.2 to the contrary, the normal rate of contribution for state peace officer/firefighter members who are supervisors within the boards and departments of the Youth and Adult Correctional Agency, or who are correctional supervisors within the State Department of Mental Health, is as follows:

(1) From August 31, 2001, to June 30, 2002, inclusive, for each peace officer/firefighter member subject to Section 21363.1, the normal rate of contribution shall be 5.5 percent of compensation in excess of eight hundred sixty-three dollars ($863) per month paid that member for service rendered.
(2) From July 1, 2002, to June 30, 2003, inclusive, for each peace officer/firefighter member subject to Section 21363.1, the normal rate of contribution shall be 3 percent of compensation in excess of eight hundred sixty-three dollars ($863) per month paid that member for service rendered.

(b) This section shall become inoperative on July 1, 2003, and as of January 1, 2004, is repealed, at which time the members’ retirement contribution rates shall be restored to the levels specified in Section 20687.2 as it applied on August 30, 2001.

SEC. 45. Section 21363.4 is added to the Government Code, to read:

21363.4. (a) Upon attaining the age of 50 years or more, the combined current and prior service pension for a state peace officer/firefighter member described in subdivision (c) who retires or dies on or after January 1, 2006, is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of his or her retirement to equal 3 percent of his or her final compensation at retirement, multiplied by the number of years of state peace officer/firefighter service, as defined in subdivision (d), subject to this section with which he or she is credited at retirement.

(b) For state peace officer/firefighter members, with respect to service for all state employers under this section, the current service pension and the combined current and prior service pension under this section shall not exceed an amount that, when added to the service retirement annuity related to that service, equals 90 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum.

(c) For purposes of this section, “state peace officer/firefighter member” means state peace officer/firefighter members under this part who, on or after January 1, 2006, are employed by the state and are members of State Bargaining Unit 6, and may include state peace officer/firefighter members in related managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, provided the Department of Personnel Administration has approved their inclusion in writing to the board.

(d) For purposes of this section, “state peace officer/firefighter service” means service performed by a state peace officer/firefighter member while a member of State Bargaining Unit 6, and may include
state peace officer/firefighter service in related managerial, supervisory, or confidential positions or as officers or employees of the executive branch of state government who are not members of the civil service, provided the Department of Personnel Administration has approved their inclusion in writing to the board.

(e) This section shall supersede Section 21363 or 21363.1, whichever is applicable, with respect to state peace officer/firefighter members and service as defined herein.

(f) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier ages of service retirement made possible by the benefits under this section.

SEC. 46. Section 22790 of the Government Code is amended to read:

22790. (a) The board may contract with carriers for health benefits plans for employees and annuitants and major medical plans or approve health benefit plans offered by employee organizations, provided that the carriers have operated successfully in the prepaid hospital and medical care field prior to the contracting for or approval thereof. The plans may include hospital benefits, surgical benefits, in-hospital medical benefits, outpatient benefits, and obstetrical benefits, and benefits offered by a bona fide church, sect, denomination or organization whose principles include healing entirely by prayer or spiritual means. The board shall contract with a sufficient number of carriers and plans that provide chiropractic services so that every employee and annuitant shall have a reasonable opportunity to enroll in a plan that provides chiropractic services without prior referral by a physician. The board may contract with health maintenance organizations approved under Title XIII of the federal Public Health Services Act (42 U.S.C. Sec. 201 et seq.).

(b) Notwithstanding any other provision of this part, the board also may contract with health plans offering unique or specialized health services.

(c) (1) The board shall approve any employee association health benefits plan that was approved by the board in the 1987–88 contract year or any year prior to that date, provided the plan continues to meet the minimum standards prescribed by the board.

(2) The recognized employee organization for State Bargaining Unit 6 may offer different medical plan designs with varying rates in different areas of the state.
(d) The board shall provide and administer any health benefits or other coverage extended at county cost under Section 77208, upon receipt of a resolution from a county board of supervisors electing to come under the administrative provisions of this part for the coverage specified in the resolution.

SEC. 47. Section 1808.4 of the Vehicle Code is amended to read:

1808.4. (a) The home address of any of the following persons, that appears in any record of the department, is confidential, if the person requests the confidentiality of that information:

(1) Attorney General.
(2) State public defender.
(3) Members of the Legislature.
(4) Judges or court commissioners.
(5) District attorneys.
(6) Public defenders.
(7) Attorneys employed by the Department of Justice, the office of the State Public Defender, or a county office of the district attorney or public defender.
(8) City attorneys and attorneys who submit verification from their public employer that they represent the city in matters that routinely place them in personal contact with persons under investigation for, charged with, or convicted of, committing criminal acts, if those attorneys are employed by city attorneys.
(9) Nonsworn police dispatchers.
(10) Child abuse investigators or social workers, working in child protective services within a social services department.
(11) Active or retired peace officers, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.
(12) Employees of the Department of Corrections, the Department of the Youth Authority, or the Prison Industry Authority specified in Sections 20403 and 20405 of the Government Code.
(13) Nonsworn employees of a city police department, a county sheriff’s office, the Department of the California Highway Patrol, federal, state, and local detention facilities, and local juvenile halls, camps, ranches, and homes, who submit agency verification that, in the normal course of their employment, they control or supervise inmates or are required to have a prisoner in their care or custody.
(14) County counsels assigned to child abuse cases.
(15) Investigators employed by the Department of Justice, a county district attorney, or a county public defender.
(16) Members of a city council.
(17) Members of a board of supervisors.
(18) Federal prosecutors and criminal investigators and National Park Service Rangers working in this state.
(19) Any active or retired city enforcement officer engaged in the enforcement of the Vehicle Code or municipal parking ordinances.

(20) Any employee of a trial court.

(21) Any psychiatric social worker employed by a county.

(22) Any police or sheriff department employee designated by the Chief of Police of the department or the sheriff of the county as being in a sensitive position. Any designation pursuant to this paragraph shall, for purposes of this section, remain in effect for three years subject to additional designations that, for purposes of this section, shall remain in effect for additional three-year periods.

(23) State employees in the following classifications:

(A) Licensing Registration Examiner, Department of Motor Vehicles.

(B) Motor Carrier Specialist 1, California Highway Patrol.

(C) Museum Security Officer and Supervising Museum Security Officer.

(24) (A) The spouse or child of any person listed in paragraphs (1) to (23), inclusive, regardless of the spouse’s or child’s place of residence.

(B) The surviving spouse or child of a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, if the peace officer died in the line of duty.

(b) The confidential home address of any of the persons listed in subdivision (a) shall not be disclosed to any person, except for any of the following:

(1) A court.

(2) A law enforcement agency.

(3) The State Board of Equalization.

(4) An attorney in a civil or criminal action that demonstrates to a court the need for the home address, if the disclosure is made pursuant to a subpoena.

(5) Any governmental agency to which, under any provision of law, information is required to be furnished from records maintained by the department.

(c) Any record of the department containing a confidential home address shall be open to public inspection, as provided in Section 1808, if the address is completely obliterated or otherwise removed from the record. The home address shall be withheld from public inspection for three years following termination of office or employment except with respect to retired peace officers, whose home addresses shall be withheld from public inspection permanently upon request of confidentiality at the time the information would otherwise be opened. The home address of the surviving spouse or child listed in subparagraph (B) of paragraph (24) of subdivision (a) shall be withheld from public inspection for three years following the death of the peace officer. The department shall
inform any person who requests a confidential home address what agency the individual whose address was requested is employed by or the court at which the judge or court commissioner presides.

(d) A violation of subdivision (a) by the disclosure of the confidential home address of a peace officer, as specified in paragraph (11) of subdivision (a), a nonsworn employee of the city police department or county sheriff’s office, or the spouses or children of these persons, including, but not limited to, the surviving spouse or child listed in subparagraph (B) of paragraph (24) of subdivision (a), that results in bodily injury to the peace officer, employee of the city police department or county sheriff’s office, or the spouses or children of these persons is a felony.

SEC. 48. The sum of fifteen million four hundred twenty-one thousand dollars ($15,421,000) is hereby appropriated for expenditure in the 2001–02 fiscal year in augmentation of, and for the purpose of state employee compensation as provided in, Items 9800-001-0001, 9800-001-0494, and 9800-001-0988 of Section 2.00 of the Budget Act of 2001 (Chapter 106 of the Statutes of 2001), in accordance with the following schedule:

(a) Fifteen million three hundred twenty-five thousand dollars ($15,325,000) from the General Fund in augmentation of Item 9800-001-0001.

(b) Sixty-one thousand dollars ($61,000) from unallocated special funds in augmentation of Item 9800-001-0494.

(c) Thirty-five thousand dollars ($35,000) from other unallocated nongovernmental cost funds in augmentation of Item 9800-001-0988.

SEC. 49. 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. 50. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible in the 2001–02 fiscal year, and thereby facilitate the orderly administration of state government at the earliest possible time, it is necessary that this act take effect immediately.
An act to amend Section 1203.097 of the Penal Code, relating to batterer’s treatment programs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor January 23, 2002. Filed with Secretary of State January 24, 2002.]

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

SECTION 1. Section 1203.097 of the Penal Code is amended to read:

1203.097. (a) If a person is granted probation for a crime in which the victim is a person defined in Section 6211 of the Family Code, the terms of probation shall include all of the following:

(1) A minimum period of probation of 36 months, which may include a period of summary probation as appropriate.

(2) A criminal court protective order protecting the victim from further acts of violence, threats, stalking, sexual abuse, and harassment, and, if appropriate, containing residence exclusion or stay-away conditions.

(3) Notice to the victim of the disposition of the case.

(4) Booking the defendant within one week of sentencing if the defendant has not already been booked.

(5) A minimum payment by the defendant of two hundred dollars ($200) to be disbursed as specified in this paragraph. If, after a hearing in court on the record, the court finds that the defendant does not have the ability to pay, the court may reduce or waive this fee.

One-third of the moneys deposited with the county treasurer pursuant to this section shall be retained by counties and deposited in the domestic violence programs special fund created pursuant to Section 18305 of the Welfare and Institutions Code, to be expended for the purposes of Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code. The remainder shall be transferred, once a month, to the Controller for deposit in equal amounts in the Domestic Violence Restraining Order Reimbursement Fund and in the Domestic Violence Training and Education Fund, which are hereby created, in an amount equal to two-thirds of funds collected during the preceding month. Moneys deposited into these funds pursuant to this section shall be available upon appropriation by the Legislature and shall be distributed each fiscal year as follows:

(A) Funds from the Domestic Violence Restraining Order Reimbursement Fund shall be distributed to local law enforcement or other criminal justice agencies for state-mandated local costs resulting
from the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code, based on the annual notification from the Department of Justice of the number of restraining orders issued and registered in the state domestic violence restraining order registry maintained by the Department of Justice, for the development and maintenance of the domestic violence restraining order data bank system.

(B) Funds from the Domestic Violence Training and Education Fund shall support a statewide training and education program to increase public awareness of domestic violence and to improve the scope and quality of services provided to the victims of domestic violence. Grants to support this program shall be awarded on a competitive basis and be administered by the State Department of Health Services, in consultation with the statewide domestic violence coalition, which is eligible to receive funding under this section.

(6) Successful completion of a batterer’s program, as defined in subdivision (c), or if none is available, another appropriate counseling program designated by the court, for a period not less than one year with periodic progress reports by the program to the court every three months or less and weekly sessions of a minimum of two hours class time duration. The defendant shall attend consecutive weekly sessions, unless granted an excused absence for good cause by the program for no more than three individual sessions during the entire program, and shall complete the program within 18 months, unless, after a hearing, the court finds good cause to modify the requirements of consecutive attendance or completion within 18 months.

(7) (A) (i) The court shall order the defendant to comply with all probation requirements, including the requirements to attend counseling, keep all program appointments, and pay program fees based upon the ability to pay.

(ii) The terms of probation for offenders shall not be lifted until all reasonable fees due to the counseling program have been paid in full, but in no case shall probation be extended beyond the term provided in subdivision (a) of Section 1203.1. If the court finds that the defendant does not have the ability to pay the fees based on the defendant’s changed circumstances, the court may reduce or waive the fees.

(B) Upon request by the batterer’s program, the court shall provide the defendant’s arrest report, prior incidents of violence, and treatment history to the program.

(8) The court also shall order the defendant to perform a specified amount of appropriate community service, as designated by the court. The defendant shall present the court with proof of completion of community service and the court shall determine if the community service has been satisfactorily completed. If sufficient staff and
resources are available, the community service shall be performed under the jurisdiction of the local agency overseeing a community service program.

(9) If the program finds that the defendant is unsuitable, the program shall immediately contact the probation department or the court. The probation department or court shall either recalendar the case for hearing or refer the defendant to an appropriate alternative batterer’s program.

(10) (A) Upon recommendation of the program, a court shall require a defendant to participate in additional sessions throughout the probationary period, unless it finds that it is not in the interests of justice to do so, states its reasons on the record, and enters them into the minutes. In deciding whether the defendant would benefit from more sessions, the court shall consider whether any of the following conditions exist:

(i) The defendant has been violence free for a minimum of six months.

(ii) The defendant has cooperated and participated in the batterer’s program.

(iii) The defendant demonstrates an understanding of and practices positive conflict resolution skills.

(iv) The defendant blames, degrades, or has committed acts that dehumanize the victim or puts at risk the victim’s safety, including, but not limited to, molesting, stalking, striking, attacking, threatening, sexually assaulting, or battering the victim.

(v) The defendant demonstrates an understanding that the use of coercion or violent behavior to maintain dominance is unacceptable in an intimate relationship.

(vi) The defendant has made threats to harm anyone in any manner.

(vii) The defendant has complied with applicable requirements under paragraph (6) of subdivision (c) or subparagraph (C) to receive alcohol counseling, drug counseling, or both.

(viii) The defendant demonstrates acceptance of responsibility for the abusive behavior perpetrated against the victim.

(B) The program shall immediately report any violation of the terms of the protective order, including any new acts of violence or failure to comply with the program requirements, to the court, the prosecutor, and, if formal probation has been ordered, to the probation department. The probationer shall file proof of enrollment in a batterer’s program with the court within 30 days of conviction.

(C) Concurrent with other requirements under this section, in addition to, and not in lieu of, the batterer’s program, and unless prohibited by the referring court, the probation department or the court may make provisions for a defendant to use his or her resources to enroll in a chemical dependency program or to enter voluntarily a licensed
chemical dependency recovery hospital or residential treatment program that has a valid license issued by the state to provide alcohol or drug services to receive program participation credit, as determined by the court. The probation department shall document evidence of this hospital or residential treatment participation in the defendant’s program file.

(11) The conditions of probation may include, in lieu of a fine, but not in lieu of the fund payment required under paragraph (5), one or more of the following requirements:

(A) That the defendant make payments to a battered women’s shelter, up to a maximum of five thousand dollars ($5,000).

(B) That the defendant reimburse the victim for reasonable expenses that the court finds are the direct result of the defendant’s offense.

For any order to pay a fine, to make payments to a battered women’s shelter, or to pay restitution as a condition of probation under this subdivision, the court shall make a determination of the defendant’s ability to pay. Determination of a defendant’s ability to pay may include his or her future earning capacity. A defendant shall bear the burden of demonstrating lack of his or her ability to pay. Express findings by the court as to the factors bearing on the amount of the fine shall not be required. In no event shall any order to make payments to a battered women’s shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. When the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property shall not be used to discharge the liability of the offending spouse for restitution to the injured spouse, as required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse, until all separate property of the offending spouse is exhausted.

(12) If it appears to the prosecuting attorney, the court, or the probation department that the defendant is performing unsatisfactorily in the assigned program, is not benefiting from counseling, or has engaged in criminal conduct, upon request of the probation officer, the prosecuting attorney, or on its own motion, the court, as a priority calendar item, shall hold a hearing to determine whether further sentencing should proceed. The court may consider factors, including, but not limited to, any violence by the defendant against the former or a new victim while on probation and noncompliance with any other specific condition of probation. If the court finds that the defendant is not performing satisfactorily in the assigned program, is not benefiting from the program, has not complied with a condition of probation, or has engaged in criminal conduct, the court shall terminate the defendant’s participation in the program and shall proceed with further sentencing.
(b) If a person is granted formal probation for a crime in which the victim is a person defined in Section 6211 of the Family Code, in addition to the terms specified in subdivision (a), all of the following shall apply:

(1) The probation department shall make an investigation and take into consideration the defendant’s age, medical history, employment and service records, educational background, community and family ties, prior incidents of violence, police report, treatment history, if any, demonstrable motivation, and other mitigating factors in determining which batterer’s program would be appropriate for the defendant. This information shall be provided to the batterer’s program if it is requested. The probation department shall also determine which community programs the defendant would benefit from and which of those programs would accept the defendant. The probation department shall report its findings and recommendations to the court.

(2) The court shall advise the defendant that the failure to report to the probation department for the initial investigation, as directed by the court, or the failure to enroll in a specified program, as directed by the court or the probation department, shall result in possible further incarceration. The court, in the interests of justice, may relieve the defendant from the prohibition set forth in this subdivision based upon the defendant’s mistake or excusable neglect. Application for this relief shall be filed within 20 court days of the missed deadline. This time limitation may not be extended. A copy of any application for relief shall be served on the office of the prosecuting attorney.

(3) After the court orders the defendant to a batterer’s program, the probation department shall conduct an initial assessment of the defendant, including, but not limited to, all of the following:

(A) Social, economic, and family background.
(B) Education.
(C) Vocational achievements.
(D) Criminal history.
(E) Medical history.
(F) Substance abuse history.
(G) Consultation with the probation officer.
(H) Verbal consultation with the victim, only if the victim desires to participate.
(I) Assessment of the future probability of the defendant committing murder.

(4) The probation department shall attempt to notify the victim regarding the requirements for the defendant’s participation in the batterer’s program, as well as regarding available victim resources. The victim also shall be informed that attendance in any program does not guarantee that an abuser will not be violent.
(c) The court or the probation department shall refer defendants only to batterer’s programs that follow standards outlined in paragraph (1), which may include, but are not limited to, lectures, classes, group discussions, and counseling. The probation department shall design and implement an approval and renewal process for batterer’s programs and shall solicit input from criminal justice agencies and domestic violence victim advocacy programs.

(1) The goal of a batterer’s program under this section shall be to stop domestic violence. A batterer’s program shall consist of the following components:

(A) Strategies to hold the defendant accountable for the violence in a relationship, including, but not limited to, providing the defendant with a written statement that the defendant shall be held accountable for acts or threats of domestic violence.

(B) A requirement that the defendant participate in ongoing same-gender group sessions.

(C) An initial intake that provides written definitions to the defendant of physical, emotional, sexual, economic, and verbal abuse, and the techniques for stopping these types of abuse.

(D) Procedures to inform the victim regarding the requirements for the defendant’s participation in the intervention program as well as regarding available victim resources. The victim also shall be informed that attendance in any program does not guarantee that an abuser will not be violent.

(E) A requirement that the defendant attend group sessions free of chemical influence.

(F) Educational programming that examines, at a minimum, gender roles, socialization, the nature of violence, the dynamics of power and control, and the effects of abuse on children and others.

(G) A requirement that excludes any couple counseling or family counseling, or both.

(H) Procedures that give the program the right to assess whether or not the defendant would benefit from the program and to refuse to enroll the defendant if it is determined that the defendant would not benefit from the program, so long as the refusal is not because of the defendant’s inability to pay. If possible, the program shall suggest an appropriate alternative program.

(I) Program staff who, to the extent possible, have specific knowledge regarding, but not limited to, spousal abuse, child abuse, sexual abuse, substance abuse, the dynamics of violence and abuse, the law, and procedures of the legal system.

(J) Program staff who are encouraged to utilize the expertise, training, and assistance of local domestic violence centers.
(K) A requirement that the defendant enter into a written agreement with the program, which shall include an outline of the contents of the program, the attendance requirements, the requirement to attend group sessions free of chemical influence, and a statement that the defendant may be removed from the program if it is determined that the defendant is not benefiting from the program or is disruptive to the program.

(L) A requirement that the defendant sign a confidentiality statement prohibiting disclosure of any information obtained through participating in the program or during group sessions regarding other participants in the program.

(M) Program content that provides cultural and ethnic sensitivity.

(N) A requirement of a written referral from the court or probation department prior to permitting the defendant to enroll in the program. The written referral shall state the number of minimum sessions required by the court.

(O) Procedures for submitting to the probation department all of the following uniform written responses:
   (i) Proof of enrollment, to be submitted to the court and the probation department and to include the fee determined to be charged to the defendant, based upon the ability to pay, for each session.
   (ii) Periodic progress reports that include attendance, fee payment history, and program compliance.
   (iii) Final evaluation that includes the program’s evaluation of the defendant’s progress, using the criteria set forth in paragraph (4) of subdivision (a) and recommendation for either successful or unsuccessful termination or continuation in the program.

(P) A sliding fee schedule based on the defendant’s ability to pay. The batterer’s program shall develop and utilize a sliding fee scale that recognizes both the defendant’s ability to pay and the necessity of programs to meet overhead expenses. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee, if the defendant has the ability to pay the nominal fee. Upon a hearing and a finding by the court that the defendant does not have the financial ability to pay the nominal fee, the court shall waive this fee. The payment of the fee shall be made a condition of probation if the court determines the defendant has the present ability to pay the fee. The fee shall be paid during the term of probation unless the program sets other conditions. The acceptance policies shall be in accordance with the scaled fee system.

(2) The court shall refer persons only to batterer’s programs that have been approved by the probation department pursuant to paragraph (5). The probation department shall do both of the following:

(A) Provide for the issuance of a provisional approval, provided that the applicant is in substantial compliance with applicable laws and
regulations and an urgent need for approval exists. A provisional approval shall be considered an authorization to provide services and shall not be considered a vested right.

(B) If the probation department determines that a program is not in compliance with standards set by the department, the department shall provide written notice of the noncompliant areas to the program. The program shall submit a written plan of corrections within 14 days from the date of the written notice on noncompliance. A plan of correction shall include, but not be limited to, a description of each corrective action and timeframe for implementation. The department shall review and approve all or any part of the plan of correction and notify the program of approval or disapproval in writing. If the program fails to submit a plan of correction or fails to implement the approved plan of correction, the department shall consider whether to revoke or suspend approval and, upon revoking or suspending approval, shall have the option to cease referrals of defendants under this section.

(3) No program, regardless of its source of funding, shall be approved unless it meets all of the following standards:

(A) The establishment of guidelines and criteria for education services, including standards of services that may include lectures, classes, and group discussions.

(B) Supervision of the defendant for the purpose of evaluating the person’s progress in the program.

(C) Adequate reporting requirements to ensure that all persons who, after being ordered to attend and complete a program, may be identified for either failure to enroll in, or failure to successfully complete, the program or for the successful completion of the program as ordered. The program shall notify the court and the probation department in writing within the period of time and in the manner specified by the court of any person who fails to complete the program. Notification shall be given if the program determines that the defendant is performing unsatisfactorily or if the defendant is not benefiting from the education, treatment, or counseling.

(D) No victim shall be compelled to participate in a program or counseling, and no program may condition a defendant’s enrollment on participation by the victim.

(4) In making referrals of indigent defendants to approved batterer’s programs, the probation department shall apportion these referrals evenly among the approved programs.

(5) The probation department shall have the sole authority to approve a batterer’s program for probation. The program shall be required to obtain only one approval but shall renew that approval annually.

(A) The procedure for the approval of a new or existing program shall include all of the following:
(i) The completion of a written application containing necessary and pertinent information describing the applicant program.

(ii) The demonstration by the program that it possesses adequate administrative and operational capability to operate a batterer’s treatment program. The program shall provide documentation to prove that the program has conducted batterer’s programs for at least one year prior to application. This requirement may be waived under subparagraph (A) of paragraph (2) if there is no existing batterer’s program in the city, county, or city and county.

(iii) The onsite review of the program, including monitoring of a session to determine that the program adheres to applicable statutes and regulations.

(iv) The payment of the approval fee.

(B) The probation department shall fix a fee for approval not to exceed two hundred fifty dollars ($250) and for approval renewal not to exceed two hundred fifty dollars ($250) every year in an amount sufficient to cover its cost in administering the approval process under this section. No fee shall be charged for the approval of local governmental entities.

(C) The probation department has the sole authority to approve the issuance, denial, suspension, or revocation of approval and to cease new enrollments or referrals to a batterer’s program under this section. The probation department shall review information relative to a program’s performance or failure to adhere to standards, or both. The probation department may suspend or revoke any approval issued under this subdivision or deny an application to renew an approval or to modify the terms and conditions of approval, based on grounds established by probation, including, but not limited to, either of the following:

(i) Violation of this section by any person holding approval or by a program employee in a program under this section.

(ii) Misrepresentation of any material fact in obtaining the approval.

(6) For defendants who are chronic users or serious abusers of drugs or alcohol, standard components in the program shall include concurrent counseling for substance abuse and violent behavior, and in appropriate cases, detoxification and abstinence from the abused substance.

(7) The program shall conduct an exit conference that assesses the defendant’s progress during his or her participation in the batterer’s program.

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

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect victims of domestic violence and promote rehabilitation of batterers, it is necessary that this act take effect immediately.

CHAPTER 3

An act to amend Sections 32553, 32555, 32556, 32565, 32565.5, 32567, 32568, 32569, 32570, and 32571 of, and to repeal Section 32574.5 of, the Public Resources Code, relating to the Baldwin Hills Conservancy.

[Approved by Governor January 23, 2002. Filed with Secretary of State January 24, 2002.]

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

SECTION 1. Section 32553 of the Public Resources Code is amended to read:

32553. As used in this division, the following terms have the following meaning:

(a) “Baldwin Hills area” means the land area currently within the Kenneth Hahn State Recreation Area, the Baldwin Hills community, the surrounding property bordered on the south by Slauson Avenue, and on the east by La Brea Avenue, including the approximately 21 acres of land zoned RE40 and bordered by La Brea Avenue on the east, Don Alberto Place to the south, and Don Ricardo Drive on the north, and including a spur of land extending from Stocker Street to an area between La Brea Avenue and Crenshaw Boulevard, as designated on the Baldwin Hills Conservancy Map, dated March 1, 2001. “Baldwin Hills area” also includes Ballona Creek and adjacent property within 50 yards of Ballona Creek on either side, from the Santa Monica Freeway (Interstate 10) to the Marina Freeway (Interstate 90). Ballona Creek is included in the Baldwin Hills area for purposes of connectivity.

(b) “Board” means the governing board of the Baldwin Hills Conservancy.

(c) “Conservancy” means the Baldwin Hills Conservancy.
(d) “Fund” means the Baldwin Hills Conservancy Fund created pursuant to subdivision (b) of Section 32574.

(e) “Nonprofit organization” means an exempt organization under Section 501(c)(3) of the Internal Revenue Code.

(f) “Territory” means the land in the Baldwin Hills area that is under the jurisdiction of the conservancy.

SEC. 2. Section 32555 of the Public Resources Code is amended to read:

32555. There is in the Resources Agency, the Baldwin Hills Conservancy, which is created for the following purposes:

(a) To acquire and manage public lands within the Baldwin Hills area, and to provide recreational, open space, wildlife habitat restoration and protection, and lands for educational uses within the area.

(b) To acquire lands for open space within the territory of the conservancy.

(c) To provide for the public’s enjoyment, and to enhance the recreational and educational experience on public lands in the territory in a manner consistent with the protection of lands and resources in the area.

SEC. 3. Section 32556 of the Public Resources Code is amended to read:

32556. (a) The board shall consist of 13 voting members and six nonvoting members.

(b) The 13 voting members of the board shall consist of the following:

(1) The Secretary of the Resources Agency, or his or her designee.
(2) The Director of Parks and Recreation, or his or her designee.
(3) The Director of Finance, or his or her designee.
(4) The Director of the Los Angeles County Department of Parks, or his or her designee.

(5) The member of the Los Angeles County Board of Supervisors within whose district the majority of the Baldwin Hills area is located.

(6) Six members of the public appointed by the Governor who are residents of Los Angeles County and who represent the diversity of the community surrounding the Baldwin Hills area. Of those six members, four members shall be selected as follows:

(A) One member shall be a resident of Culver City selected from a list of three persons nominated by the city council.

(B) Three members shall be residents of the adjacent communities of Blair Hills, Ladera Heights, Baldwin Hills, Windsor Hills, Inglewood, View Park, or Baldwin Vista.

(7) A resident of Los Angeles County appointed by the Speaker of the Assembly, and a resident of Los Angeles County appointed by the Senate Committee on Rules.

(c) The six nonvoting members shall consist of the following:
(1) The Secretary of the California Environmental Protection Agency, or his or her designee.
(2) The Executive Officer of the State Coastal Conservancy, or his or her designee.
(3) The Executive Officer of the State Lands Commission, or his or her designee.
(4) An appointee of the Governor with experience in developing contaminated sites, commonly referred to as “brownfields.”
(5) The Executive Director of the Santa Monica Mountains Conservancy, or his or her designee.
(6) The Director of the Culver City Human Services Department, or his or her designee.
(d) A quorum shall consist of seven voting members of the board, and any action of the board affecting any matter before the board shall be decided by a majority vote of the voting members present, a quorum being present. However, the affirmative vote of at least four of the voting members of the board shall be required for the transaction of any business of the board.
(e) The board shall do all of the following:
(1) Study the potential environmental and recreational uses of Ballona Creek and the adjacent property described in subdivision (a) of Section 32553.
(2) Develop a proposed map for that area.
(3) Provide a report to the Legislature, on or before January 1, 2003, on the results of paragraphs (1) and (2).
SEC. 4. Section 32565 of the Public Resources Code is amended to read:
32565. The jurisdiction of the conservancy shall include only those lands or other areas that are donated to, or otherwise acquired by, or are operated by the conservancy, that are located in the Baldwin Hills area.
SEC. 5. Section 32565.5 of the Public Resources Code is amended to read:
32565.5. The conservancy shall do all of the following:
(a) Develop and coordinate an integrated program of resource stewardship so that the entire Baldwin Hills area is managed for optimum recreational and natural resource values based upon the needs and desires of the surrounding community.
(b) Establish policies and priorities within the Baldwin Hills area, and conduct any necessary planning activities in accordance with the purposes set forth in Section 32555.
(c) Give priority to related projects that create expanded opportunities that provide recreation, aesthetic improvement, and wildlife habitat in the Baldwin Hills area.
(d) Approve conservancy funded projects that advance the policies and proprieties set forth in this division.

(e) Enter into a memorandum of understanding with the Department of Parks and Recreation that would require the conservancy and the department to cooperate in the sharing of technical assistance, data, and information.

(f) Upon submission to the Legislature of the master plan required to be prepared pursuant to subdivisions (b) and (c) of Section 1 of Chapter 752 of the Statutes of 1999 by the Secretary of the Resources Agency and the Director of Parks and Recreation, the conservancy shall, by May 1, 2002, approve the master plan, and prioritize and implement both of the following in accordance with the master plan and with the master plan recommendations:

1. The acquisition of additional recreational and open space and a plan for the management of lands under the jurisdiction of the conservancy, including additional or upgraded facilities and parks that may be necessary or desirable.

2. The planned conveyance of lands acquired and restored, or lands acquired, restored, and developed, to the Department of Parks and Recreation or to any other public agency once the acquisition and improvements have been finalized. The transfer shall be subject to the approval of the Secretary of the Resources Agency. The secretary may require all lands and facilities subject to transfer to be repaired, replaced, or rehabilitated to a fully operable condition, prior to the transfer occurring.

(g) Any proposed operating agreement, or an amendment to an agreement, for the Kenneth Hahn State Recreation Area between the Department of Parks and Recreation and any local operating agency that would affect the conservancy shall be submitted to the conservancy at least 90 days prior to the proposed effective date of the agreement to enable the conservancy to provide input, as appropriate.

SEC. 6. Section 32567 of the Public Resources Code is amended to read:

32567. The conservancy shall determine acquisition priorities and may acquire real property or any interest in real property within the Baldwin Hills area from willing sellers and at fair market value or on other mutually acceptable terms, upon a finding that the acquisition is consistent with the purposes of the conservancy. The conservancy may acquire the property itself, or may coordinate the acquisition with other public agencies with appropriate responsibility and available funding or land to exchange. The overall objectives of the land acquisition program shall be to assist in accomplishing land transactions that are mutually beneficial to the landowners and the conservancy, and that meet the conservancy's purposes. Neither the conservancy nor the State Board of
Public Works shall exercise the power of eminent domain for the purposes of this division. The conservancy shall have the first right of refusal to acquire, at the cost of acquisition, surplus public lands suitable for park and open space within the conservancy’s territory, and may accept private or public lands offered for recreational trails.

SEC. 7. Section 32568 of the Public Resources Code is amended to read:

32568. (a) The conservancy may, within the Baldwin Hills area, undertake site improvement projects; regulate public access; revegetate and otherwise rehabilitate degraded areas, in consultation with other public agencies with appropriate jurisdiction and expertise; upgrade deteriorating facilities; and construct new facilities as needed for outdoor recreation, nature appreciation and interpretation, and natural resource protection. These projects shall be directed by the conservancy and undertaken by other public agencies, with the conservancy providing overall coordination through setting priorities for projects and assuring uniformity of approach.

(b) The conservancy shall not, under any circumstances, extend the road designated as “Stocker Street” to Overland Avenue or to any street within the boundaries of Culver City without the prior written approval of the city council.

SEC. 8. Section 32569 of the Public Resources Code is amended to read:

32569. (a) The conservancy may award grants to local public agencies, state agencies, federal agencies, and nonprofit organizations for the purposes of this division.

(b) Grants to nonprofit organizations for the acquisition of real property or interests in real property shall be subject to all of the following conditions:

(1) The conservancy may acquire property at fair market value and consistent with the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code), except that the acquisition price of lands acquired from public agencies may be based on the public agencies’ cost to acquire the land.

(2) The conservancy shall approve the terms under which the interest in land is acquired.

(3) The interest in land acquired pursuant to a grant from the conservancy may not be used as security for any debt incurred by the nonprofit organization unless the conservancy approves the transaction.

(4) The transfer of land acquired pursuant to a grant shall be subject to the approval of the conservancy and the execution of an agreement between the conservancy and the transferee sufficient to protect the interests of the conservancy.
(5) The conservancy shall have a right of entry and power of termination in and over all interests in real property acquired with state funds, which may be exercised if any essential term or condition of the grant is violated.

(6) If the existence of the nonprofit organization is terminated for any reason, title to all interest in real property acquired with state funds shall immediately vest in the conservancy, except that, prior to that termination, another public agency or nonprofit organization may receive title to all or a portion of that interest in real property, by recording its acceptance of title, together with the conservancy’s approval, in writing.

(c) Any deed or other instrument of conveyance whereby real property is acquired by a nonprofit organization pursuant to this section shall be recorded and shall set forth the executory interest or right of entry on the part of the conservancy.

SEC. 9. Section 32570 of the Public Resources Code is amended to read:

32570. (a) Notwithstanding any other provision of law, the conservancy may lease, rent, sell, exchange, or otherwise transfer any real property or interest therein or option acquired under this division to a local public agency, state agency, federal agency, nonprofit organization, individual, or other entity for management purposes pursuant to terms and conditions approved by the conservancy. The conservancy may request the Director of General Services to undertake these actions on its behalf.

(b) The conservancy may initiate, negotiate, and participate in agreements for the management of land under its ownership or control with local public agencies, state agencies, federal agencies, nonprofit organizations, individuals, or other entities and may enter into any other agreements authorized by state or federal law.

SEC. 10. Section 32571 of the Public Resources Code is amended to read:

32571. (a) Local public agencies may enter into an agreement to transfer responsibility for the management of the land located within the Baldwin Hills area to the conservancy.

(b) Local public agencies shall retain exclusive authority over all zoning or land use regulations within their jurisdiction.

SEC. 11. Section 32574.5 of the Public Resources Code is repealed.
CHAPTER 4

An act to repeal and add Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code, relating to natural community conservation planning, and making an appropriation therefor.

[Approved by Governor February 2, 2002. Filed with Secretary of State February 4, 2002.]

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

SECTION 1. Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code is repealed.

SEC. 2. Chapter 10 (commencing with Section 2800) is added to Division 3 of the Fish and Game Code, to read:

CHAPTER 10. NATURAL COMMUNITY CONSERVATION PLANNING ACT

2800. This chapter shall be known, and may be cited, as the Natural Community Conservation Planning Act.

2801. The Legislature finds and declares all of the following:

(a) The continuing population growth in California will result in increasing demands for dwindling natural resources and result in the continuing decline of the state’s wildlife.

(b) There is a need for broad-based planning to provide for effective protection and conservation of the state’s wildlife heritage while continuing to allow appropriate development and growth.

(c) Natural community conservation planning is an effective tool in protecting California’s natural diversity while reducing conflicts between protection of the state’s wildlife heritage and reasonable use of natural resources for economic development.

(d) Natural community conservation planning promotes coordination and cooperation among public agencies, landowners, and other private interests, provides a mechanism by which landowners and development proponents can effectively address cumulative impact concerns, promotes conservation of unfragmented habitat areas, promotes multispecies and multihabitat management and conservation, provides one option for identifying and ensuring appropriate mitigation that is roughly proportional to impacts on fish and wildlife, and promotes the conservation of broad-based natural communities and species diversity.

(e) Natural community conservation planning can provide for efficient use and protection of natural and economic resources while promoting greater sensitivity to important elements of the state’s critical natural diversity.
(f) Natural community conservation planning is a voluntary and effective planning process that can facilitate early coordination to protect the interests of the state, the federal government, and local public agencies, landowners, and other private parties.

(g) Natural community conservation planning is a mechanism that can provide an early planning framework for proposed development projects within the planning area in order to avoid, minimize, and compensate for project impacts to wildlife.

(h) Natural community conservation planning is consistent with, and will support, the fish and wildlife management activities of the department in its role as the trustee for fish and wildlife within the state.

(i) The purpose of natural community conservation planning is to sustain and restore those species and their habitat identified by the department that are necessary to maintain the continued viability of those biological communities impacted by human changes to the landscape.

(j) Natural community conservation planning is a cooperative process that often involves local, state, and federal agencies and the public, including landowners within the plan area. The process should encourage the active participation and support of landowners and others in the conservation and stewardship of natural resources in the plan area during plan development using appropriate measures, including incentives.

2802. The Legislature further finds and declares that it is the policy of the state to conserve, protect, restore, and enhance natural communities. It is the intent of the Legislature to acquire a fee or less than fee interest in lands consistent with approved natural community conservation plans and to provide assistance with the implementation of those plans.

2805. The definitions in this section govern the construction of this chapter:

(a) “Adaptive management” means to use the results of new information gathered through the monitoring program of the plan and from other sources to adjust management strategies and practices to assist in providing for the conservation of covered species.

(b) “Changed circumstances” are reasonably foreseeable circumstances that could affect a covered species or geographic area covered by the plan.

(c) “Conserve,” “conserving,” and “conservation” mean to use, and the use of, methods and procedures within the plan area that are necessary to bring any covered species to the point at which the measures provided pursuant to Chapter 1.5 (commencing with Section 2050) are not necessary, and for covered species that are not listed pursuant to Chapter 1.5 (commencing with Section 2050), to maintain or enhance
the condition of a species so that listing pursuant to Chapter 1.5 (commencing with Section 2050) will not become necessary.

(d) “Covered species” means those species, both listed pursuant to Chapter 1.5 (commencing with Section 2050) and nonlisted, conserved and managed under an approved natural community conservation plan and that may be authorized for take.

(e) “Department assurance” means the department’s commitment pursuant to subdivision (f) of Section 2820.

(f) “Monitoring program” means a program within an approved natural community conservation plan that provides periodic evaluations of monitoring results to assess the adequacy of the mitigation and conservation strategies or activities and to provide information to direct the adaptive management program. The monitoring program shall, to the extent practicable, also be used to meet the monitoring requirements of Section 21081.6 of the Public Resources Code. A monitoring program includes all of the following:

(1) Surveys to determine the status of biological resources addressed by the plan, including covered species.

(2) Periodic accountings and assessment of authorized take.

(3) Progress reports on all of the following matters:
   (A) Establishment of habitat reserves or other measures that provide equivalent conservation of covered species and providing funding where applicable.
   (B) Compliance with the plan and the implementation agreement by the wildlife agencies, local governments, and landowners who have responsibilities under the plan.
   (C) Measurements to determine if mitigation and conservation measures are being implemented roughly proportional in time and extent to the impact on habitat or covered species authorized under the plan.
   (D) Evaluation of the effectiveness of the plan in meeting the conservation objectives of the plan.
   (E) Maps of land use changes in the plan area that may affect habitat values or covered species.

(4) A schedule for conducting monitoring activities.

(g) “Natural community conservation plan” or “plan” means the plan prepared pursuant to a planning agreement entered into in accordance with subdivision (a) of Section 2810. The plan shall identify and provide for those measures necessary to conserve and manage natural biological diversity within the plan area while allowing compatible and appropriate economic development, growth, and other human uses.

(h) “Person” has the same meaning as defined in Section 711.2.

(i) “Plan participant,” prior to approval of a natural community conservation plan and execution of an implementation agreement,
means a signatory to the planning agreement. Upon approval of a natural community conservation plan and execution of an implementation agreement, plan participants and any local agency that is a signatory to the implementing agreement are the permittees.

(j) “Unforeseen circumstances” means changes affecting one or more species, habitat, natural community, or the geographic area covered by a conservation plan that could not reasonably have been anticipated at the time of plan development, and that result in a substantial adverse change in the status of one or more covered species.

(k) “Wildlife” has the same meaning as defined in Section 711.2.

(l) “Wildlife agencies” means the department and one or both of the following:

(1) United States Fish and Wildlife Service.

(2) National Marine Fisheries Service.

2809. Any person, or any local, state, or federal agency, independently, or in cooperation with other persons, may undertake natural community conservation planning.

2810. (a) The department may enter into an agreement with any person or public entity for the purpose of preparing a natural community conservation plan, in cooperation with a local agency that has land use permit authority over the activities proposed to be addressed in the plan, to provide comprehensive management and conservation of multiple wildlife species, including, but not limited to, those species listed pursuant to Article 2 (commencing with Section 2070) of Chapter 1.5. The agreement shall include a provision specifying the amount of compensation, if any, payable to the department pursuant to Section 2829.

(b) The agreement shall meet all of the following conditions:

(1) The agreement shall be binding upon the department, other participating federal, state, and local agencies, and participating private landowners.

(2) The agreement shall define the geographic scope of the conservation planning area.

(3) The agreement shall identify a preliminary list of those natural communities, and the endangered, threatened, candidate, or other species known, or reasonably expected to be found, in those communities, that are intended to be the initial focus of the plan.

(4) The agreement shall identify preliminary conservation objectives for the planning area.

(5) The agreement shall establish a process for the inclusion of independent scientific input to assist the department and plan participants, and to do all of the following:

(A) Recommend scientifically sound conservation strategies for species and natural communities proposed to be covered by the plan.
(B) Recommend a set of reserve design principles that addresses the needs of species, landscapes, ecosystems, and ecological processes in the planning area proposed to be addressed by the plan.

(C) Recommend management principles and conservation goals that can be used in developing a framework for the monitoring and adaptive management component of the plan.

(D) Identify data gaps and uncertainties so that risk factors can be evaluated.

(6) The agreement shall require coordination with federal wildlife agencies with respect to the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.).

(7) The agreement shall encourage concurrent planning for wetlands and waters of the United States.

(8) The agreement shall establish an interim process during plan development for project review wherein discretionary projects within the plan area subject to Division 13 (commencing with Section 21000) of the Public Resources Code that potentially conflict with the preliminary conservation objectives in the planning agreement are reviewed by the department prior to, or as soon as possible after the project application is deemed complete pursuant to Section 65943 of the Government Code and the department recommends mitigation measures or project alternatives that would help achieve the preliminary conservation objectives. As part of this process, information developed pursuant to paragraph (5) of subdivision (b) of Section 2810 shall be taken into consideration by the department and plan participants. Any take of candidate, threatened, or endangered species that occurs during this interim period shall be included in the analysis of take to be authorized under an approved plan. Nothing in this paragraph is intended to authorize take of candidate, protected, or endangered species.

(9) The agreement shall establish a process for public participation throughout the plan development and review pursuant to Section 2815.

(c) The approval of the planning agreement is not a project pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

(d) Prior to department approval of the planning agreement, the public shall have 21 calendar days to review and comment on the proposed planning agreement.

2815. The department shall establish, in cooperation with the parties to the planning agreement, a process for public participation throughout plan development and review to ensure that interested persons, including landowners, have an adequate opportunity to provide input to lead agencies, state and federal wildlife agencies, and others involved in preparing the plan. The public participation objectives of this section may be achieved through public working groups or advisory
committees, established early in the process. This process shall include all of the following:

(a) A requirement that draft documents associated with a natural community conservation plan that are being considered for adoption by the plan lead agency shall be available for public review and comment for at least 60 days prior to the adoption of that draft document. Preliminary public review documents shall be made available by the plan lead agency at least 10 working days prior to any public hearing addressing these documents. The review period specified in this subdivision may run concurrently with the review period provided for any document required by the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) that is associated with the natural community conservation plan. This subdivision shall not be construed to limit the discretion of a public agency to revise any draft documents at a public hearing.

(b) A requirement to make available in a reasonable and timely manner all draft plans, memoranda of understanding, maps, conservation guidelines, species coverage lists, and other planning documents associated with a natural community conservation plan that are subject to public review.

(c) A requirement that all public hearings held during plan preparation or review for approval are complementary to, or integrated with, those hearings otherwise provided by law.

(d) An outreach program to provide access to information for persons interested in the plan, including landowners, with an emphasis on obtaining input from a balanced variety of affected public and private interests, including state and local governments, county agricultural commissioners, agricultural organizations, landowners, conservation organizations, and the general public.

2820. (a) The department shall approve a natural community conservation plan for implementation after making the following findings, based upon substantial evidence in the record:

1) The plan has been developed consistent with the process identified in the planning agreement entered into pursuant to Section 2810.

2) The plan integrates adaptive management strategies that are periodically evaluated and modified based on the information from the monitoring program and other sources, which will assist in providing for the conservation of covered species and ecosystems within the plan area.

3) The plan provides for the protection of habitat, natural communities, and species diversity on a landscape or ecosystem level through the creation and long-term management of habitat reserves or other measures that provide equivalent conservation of covered species appropriate for land, aquatic, and marine habitats within the plan area.
(4) The development of reserve systems and conservation measures in the plan area provides, as needed for the conservation of species, all of the following:

(A) Conserving, restoring, and managing representative natural and seminatural landscapes to maintain the ecological integrity of large habitat blocks, ecosystem function, and biological diversity.

(B) Establishing one or more reserves or other measures that provide equivalent conservation of covered species within the plan area and linkages between them and adjacent habitat areas outside of the plan area.

(C) Protecting and maintaining habitat areas that are large enough to support sustainable populations of covered species.

(D) Incorporating a range of environmental gradients (such as slope, elevation, aspect, and coastal or inland characteristics) and high habitat diversity to provide for shifting species distributions due to changed circumstances.

(E) Sustaining the effective movement and interchange of organisms between habitat areas in a manner that maintains the ecological integrity of the habitat areas within the plan area.

(5) The plan identifies activities, and any restrictions on those activities, allowed within reserve areas that are compatible with the conservation of species, habitats, natural communities, and their associated ecological functions.

(6) The plan contains specific conservation measures that meet the biological needs of covered species and that are based upon the best available scientific information regarding the status of covered species and the impacts of permitted activities on those species.

(7) The plan contains a monitoring program.

(8) The plan contains an adaptive management program.

(9) The plan includes the estimated timeframe and process by which the reserves or other conservation measures are to be implemented, including obligations of landowners and plan signatories and consequences of the failure to acquire lands in a timely manner.

(10) The plan contains provisions that ensure adequate funding to carry out the conservation actions identified in the plan.

(b) A natural community conservation plan approved pursuant to this section shall include an implementation agreement that contains all of the following:

(1) Provisions defining species coverage, including any conditions of coverage.

(2) Provisions for establishing the long-term protection of any habitat reserve or other measures that provide equivalent conservation of covered species.
(3) Specific terms and conditions, which, if violated, would result in the suspension or revocation of the permit, in whole or in part. The department shall include a provision requiring notification to the plan participant of a specified period of time to cure any default prior to suspension or revocation of the permit in whole or in part. These terms and conditions shall address, but are not limited to, provisions specifying the actions the department shall take under all of the following circumstances:

(A) If the plan participant fails to provide adequate funding.

(B) If the plan participant fails to maintain the rough proportionality between impacts on habitat or covered species and conservation measures.

(C) If the plan participant adopts, amends, or approves any plan or project without the concurrence of the wildlife agencies that is inconsistent with the objectives and requirements of the approved plan.

(D) If the level of take exceeds that authorized by the permit.

(4) Provisions specifying procedures for amendment of the plan and the implementation agreement.

(5) Provisions ensuring implementation of the monitoring program and adaptive management program.

(6) Provisions for oversight of plan implementation for purposes of assessing mitigation performance, funding, and habitat protection measures.

(7) Provisions for periodic reporting to the wildlife agencies and the public for purposes of information and evaluation of plan progress.

(8) Mechanisms to ensure adequate funding to carry out the conservation actions identified in the plan.

(9) Provisions to ensure that implementation of mitigation and conservation measures on a plan basis is roughly proportional in time and extent to the impact on habitat or covered species authorized under the plan. These provisions shall identify the conservation measures, including assembly of reserves where appropriate and implementation of monitoring and management activities, that will be maintained or carried out in rough proportion to the impact on habitat or covered species and the measurements that will be used to determine if this is occurring.

(c) If a plan participant does not maintain the proportionality between take and conservation measures specified in the implementation agreement and does not either cure the default within 45 days or enter into an agreement with the department within 45 days to expeditiously cure the default, the department shall suspend or revoke the permit, in whole or in part.

(d) Any data and reports associated with the monitoring program required by this section shall be available for public review. The entity
managing the plan shall also conduct public workshops on an annual basis to provide information and evaluate progress toward attaining the conservation objectives of the plan.

(e) To the extent provided pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code and any guidelines adopted pursuant thereto, if the impacts on one or more covered species and its habitat are analyzed and mitigated pursuant to a program environmental impact report for a plan adopted pursuant to this chapter, a plan participant that is a lead agency or a responsible agency under that division shall incorporate in the review of any subsequent project in the plan area the feasible mitigation measures and alternatives related to the biological impacts on covered species and their habitat developed in the program environmental impact report.

(f) The department may provide assurances for plan participants commensurate with long-term conservation assurances and associated implementation measures pursuant to the approved plan.

1) When providing assurances pursuant to this subdivision, the department’s determination of the level of assurances and the time limits specified in the implementation agreement for assurances may be based on localized conditions and shall consider all of the following:

(A) The level of knowledge of the status of the covered species and natural communities.

(B) The adequacy of analysis of the impact of take on covered species.

(C) The use of the best available science to make assessments about the impacts of take, the reliability of mitigation strategies, and the appropriateness of monitoring techniques.

(D) The appropriateness of the size and duration of the plan with respect to quality and amount of data.

(E) The sufficiency of mechanisms for long-term funding of all components of the plan and contingencies.

(F) The degree of coordination and accessibility of centralized data for analysis and evaluation of the effectiveness of the plan.

(G) The degree to which a thorough range of foreseeable circumstances are considered and provided for under the adaptive management program.

(H) The size and duration of the plan.

2) If there are unforeseen circumstances, additional land, water, or financial compensation or additional restrictions on the use of land, water, or other natural resources shall not be required without the consent of plan participants for a period of time specified in the implementation agreement, unless the department determines that the plan is not being implemented consistent with the substantive terms of the implementation agreement.
2821. Concurrent with the approval by the department of a final natural community conservation plan, the department shall do both of the following:

(a) Establish a list of species that are authorized for take pursuant to Section 2835 and the department shall make specific findings to support coverage pursuant to Section 2820. For purposes of determining whether a species should receive coverage under a plan, the department shall use, in addition to the standards required for the adoption of a plan, one or more of the following criteria:

(1) Coverage is warranted based upon regional or landscape level consideration, such as healthy population levels, widespread distribution throughout the plan area, and life history characteristics that respond to habitat-scale conservation and management actions.

(2) Coverage is warranted based on regional or landscape level considerations with site specific conservation and management requirements that are clearly identified in the plan for species that are generally well-distributed, but that have core habitats that must be conserved.

(3) Coverage is warranted based upon site specific considerations and the identification of specific conservation and management conditions for species within a narrowly defined habitat or limited geographic area within the plan area.

(b) Find that the mitigation measures specified in the plan and imposed by the plan participants are consistent with subdivision (d) of Section 2801.

2822. The department may seek injunctive relief against any plan participant, person, or entity to enforce this chapter.

2823. The department shall suspend or revoke any permit, in whole or in part, issued for the take of a species subject to Section 2835 if the continued take of the species would result in jeopardizing the continued existence of the species.

2825. The department may adopt regulations for the development and implementation of natural community conservation plans consistent with this chapter.

2826. Nothing in this chapter exempts a project proposed in a natural community conservation planning area from Division 13 (commencing with Section 21000) of the Public Resources Code or otherwise alters or affects the applicability of that division.

2827. To the extent practicable, implementation of natural community conservation plans shall use the services of either the California Conservation Corps or local community conservation corps.

2828. Nothing in this chapter prohibits a local government from exercising any power or authority granted to it pursuant to state law to acquire land or water to implement a plan.
2829. (a) The department may be compensated for the actual costs incurred in participating in the preparation and implementation of natural community conservation plans. These costs may include consultation with other parties to agreements authorized by Section 2810, providing and compiling wildlife and wildlife habitat data, reviewing and approving the final plan, monitoring implementation of the plan, and other activities necessary to the preparation and implementation of a plan.

(b) The department may be compensated for those expenses identified in subdivision (a) according to a schedule in the agreement authorized by Section 2810.

2830. Nothing in this chapter prohibits the taking or the incidental take of any identified species if the taking is authorized by the department pursuant to any of the following:

(a) A natural community conservation plan or amended plan approved by the department prior to January 1, 2002. Any permits, plans, implementation agreements, and amendments to those permits, plans, or implementation agreements described in this section are deemed to be in full force and effect as of the date approved or entered into by the parties insofar as they authorize the take of identified species pursuant to an approved natural community conservation plan and shall be governed solely by former Chapter 10 (commencing with Section 2800) as it read on December 31, 2001.

(b) Any natural community conservation plan, or subarea plan, approved, or amended on or after January 1, 2002, for which a planning or enrollment agreement meets any of the following criteria, which shall be solely governed in accordance with former Chapter 10 (commencing with Section 2800) as it read on December 31, 2001:

1. The natural community conservation plan was entered into between the department and plan participants prior to January 1, 2001, and is carried out pursuant to Rule 4(d) for the California Gnatcatcher (Federal Register Volume 58, December 10, 1993), including the southern subregion of Orange County.

2. The natural community conservation plan was prepared pursuant to the planning agreement for the San Diego Multiple Species Conservation Plan.

3. The natural community conservation plan was prepared pursuant to the planning agreement for the San Diego Multiple Habitat Conservation Plan.

(c) Any programmatic natural community conservation plan approved by the department on or before January 1, 2002.

(d) Any natural community conservation plan developed pursuant to a planning or enrollment agreement executed on or before January 1, 2001, and for which the department finds that the plan has been
developed using a public participation and scientific analysis process substantially in conformance with the intent of paragraph (5) of subdivision (b) of Section 2810 and Section 2815.

(e) Any natural community conservation plan developed pursuant to a planning agreement executed on or before January 1, 2002, and which the department finds is in substantial compliance with Section 2820.

2835. At the time of plan approval, the department may authorize by permit the taking of any covered species whose conservation and management is provided for in a natural community conservation plan approved by the department.

CHAPTER 5

An act to amend Section 19775.17 of, and to add Section 19775.18 to, the Government Code, relating to state employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 13, 2002. Filed with Secretary of State February 13, 2002.]

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

SECTION 1. Section 19775.17 of the Government Code is amended to read:

19775.17. (a) In addition to the benefits provided pursuant to Sections 19775 and 19775.1, a state employee who, as a member of the California National Guard or a United States military reserve organization, is ordered to active duty by Presidential determination that it is necessary to augment the active forces for any operational mission, or when in time of national emergency declared by the President or otherwise authorized by law, shall have the benefits provided for in subdivision (b).

(b) Any state employee to which subdivision (a) applies, while on active duty, shall receive from the state, for the duration of the event as authorized pursuant to Sections 12302 and 12304 of Title 10 of the United States Code, but not to exceed 180 calendar days, as part of his or her compensation both of the following:

(1) The difference between the amount of his or her military pay and allowances and the amount the employee would have received as a state employee, including any merit raises that would otherwise have been granted during the time the individual was on active duty. The amount an employee, as defined in Section 18526, would have received as a state employee, including any merit raises that would otherwise have been
granted during the time the individual was on active duty, shall be
determined by the Department of Personnel Administration.

(2) All benefits that he or she would have received had he or she not
served on active duty unless the benefits are prohibited or limited by
vendor contracts.

(c) Any individual receiving compensation pursuant to subdivision
(b) who does not reinstate to state service following active duty, shall
have that compensation treated as a loan payable with interest at the rate
earned on the Pooled Money Investment Account. This subdivision shall
not apply to compensation received pursuant to Section 19775.

(d) Benefits provided under paragraph (1) of subdivision (b) shall
only be provided to a state employee who was not eligible to participate
in a federally sponsored income protection program for National Guard
personnel or military reserve personnel, or both, called into active duty,
as determined by the Department of Personnel Administration. For a
state employee eligible to participate in a federally sponsored income
protection program, and whose monthly salary as a state employee was
higher than the sum of his or her military pay and allowances and the
maximum allowable benefit under the federally sponsored income
protection program, the state employee shall receive the amount payable
under paragraph (1) of subdivision (b), but that amount shall be reduced
by the maximum allowable benefit under the federally sponsored
income protection program. For individuals who elected the federally
sponsored income protection program, the state shall reimburse for the
cost of the insurance premium for the period of time on active duty, not
to exceed 180 calendar days.

(e) For purposes of this section, "state employee" means an
employee as defined in Section 18526 or an officer or employee of the
legislative, executive, or judicial department of the state.

(f) This section shall not apply to any state employee entitled to
additional compensation or benefits pursuant to Section 19775.16 or
Section 19775.18 of this code, or Section 395.08 of the Military and
Veterans Code.

SEC. 2. Section 19775.18 is added to the Government Code, to read:
19775.18. (a) In addition to the benefits provided pursuant to
Sections 19775 and 19775.1, a state employee who, as a member of the
California National Guard or a United States military reserve
organization, is ordered to active duty on and after September 11, 2001,
as a result of the War on Terrorism, shall have the benefits provided for
in subdivision (b).

(b) Any state employee to which subdivision (a) applies, while on
active duty, shall receive from the state, for the duration of the event
known as the War on Terrorism, as authorized pursuant to Sections
12302 and 12304 of Title 10 of the United States Code, but not to exceed
365 calendar days, as part of his or her compensation both of the following:

(1) The difference between the amount of his or her military pay and allowances and the amount the employee would have received as a state employee, including any merit raises that would otherwise have been granted during the time the individual was on active duty. The amount an employee, as defined in Section 18526, would have received as a state employee, including any merit raises that would otherwise have been granted during the time the individual was on active duty, shall be determined by the Department of Personnel Administration.

(2) All benefits that he or she would have received had he or she not served on active duty unless the benefits are prohibited or limited by vendor contracts.

(c) Any individual receiving compensation pursuant to subdivision (b) who does not reinstate to state service following active duty, shall have that compensation treated as a loan payable with interest at the rate earned on the Pooled Money Investment Account. This subdivision shall not apply to compensation received pursuant to Section 19775.

(d) Benefits provided under paragraph (1) of subdivision (b) shall only be provided to a state employee who was not eligible to participate in a federally sponsored income protection program for National Guard personnel or military reserve personnel, or both, called into active duty, as determined by the Department of Personnel Administration. For a state employee eligible to participate in a federally sponsored income protection program, and whose monthly salary as a state employee was higher than the sum of his or her military pay and allowances and the maximum allowable benefit under the federally sponsored income protection program, the state employee shall receive the amount payable under paragraph (1) of subdivision (b), but that amount shall be reduced by the maximum allowable benefit under the federally sponsored income protection program. For individuals who elected the federally sponsored income protection program, the state shall reimburse for the cost of the insurance premium for the period of time on active duty, not to exceed 365 calendar days.

(e) For purposes of this section, "state employee" means an employee as defined in Section 18526 or an officer or employee of the legislative, executive, or judicial department of the state.

(f) This section shall not apply to any state employee entitled to additional compensation or benefits pursuant to Section 19775.16 or Section 19775.17 of this code, or Section 395.08 of the Military and Veterans Code.

(g) This section shall not apply to any active duty served after the close of the War on Terrorism.
SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide benefits to state employees who have been called to serve on active duty for the War on Terrorism as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 6

An act to amend Section 9109 of the Commercial Code, to amend Sections 1871, 1871.4, 1872.83, 11721, 11734, 11737, 11770, 11783, 11784, 11785, 11786, 11787, 11820, 11822, and 11860 of, to add Section 11771.5 to, to add and repeal Section 11741 of, and to repeal Section 11823 of, the Insurance Code, and to amend Sections 62.6, 75, 77, 78, 90.5, 110, 123, 123.3, 123.5, 123.6, 124, 127, 129, 129.5, 133, 138, 138.1, 138.2, 138.4, 3501, 3550, 3551, 3722, 3762, 3820, 4061, 4062, 4062.9, 4064, 4067, 4453, 4455, 4600.3, 4600.5, 4628, 4644, 4646, 4651, 4658, 4659, 4702, 4703.5, 5275, 5305, 5307, 5310, 5311.5, 5401, 5405, 5500.3, 5502, 5814, 5814.5, and 6354.5 of, to amend the heading of Chapter 5 (commencing with Section 110) of Division 1 of, to add Sections 90.3, 127.5, 127.6, 139.47, 3201.7, 3201.9, 3822, 4600.1, 4600.2, 4600.35, 4603.4, 4903.5, 5307.2, 5307.21, and 6354.7 to, to add and repeal Sections 139.48 and 139.49 of, and to repeal Sections 139.05, 3552, and 4065 of the Labor Code, relating to workers' compensation.

[Approved by Governor February 15, 2002. Filed with Secretary of State February 19, 2002.]

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

SECTION 1. The Legislature finds and declares as follows:
(a) The prevention of workplace injuries and illnesses is an essential component of California’s workers’ compensation system.
(b) The provision of loss control services by insurers is an important tool in preventing injuries.
(c) The development and use of injury and illness prevention education programs also help reduce unnecessary injuries and illnesses.
(d) The certification program funded by the Loss Control Certification Fund is ineffective and should be redirected to more useful injury prevention programs.
(e) All existent funding available in, and all current fees used to maintain, the Loss Control Certification Fund should be used to
establish the Loss Control Ombudsperson Fund and the Workers’ Occupational Safety and Health Education Fund.

SEC. 2. Section 9109 of the Commercial Code is amended to read:

9109. (a) Except as otherwise provided in subdivisions (c) and (d), this division applies to each of the following:

(1) A transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract.
(2) An agricultural lien.
(3) A sale of accounts, chattel paper, payment intangibles, or promissory notes.
(4) A consignment.
(5) A security interest arising under Section 2401 or 2505, or under subdivision (3) of Section 2711, or subdivision (5) of Section 10508, as provided in Section 9110.
(6) A security interest arising under Section 4210 or 5118.

(b) The application of this division to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this division does not apply.

(c) This division does not apply to the extent that any of the following conditions is satisfied:

(1) A statute, regulation, or treaty of the United States preempts this division.
(2) Another statute of this state expressly governs the creation, perfection, priority, or enforcement of a security interest created by this state or a governmental unit of this state. These statutes include statutes that provide for pledges, liens, or security interests to secure bonds or other obligations (including, without limitation, leases) of this state or a governmental unit, whether the statute is of general application like Sections 5450 and 5451 of the Government Code, or is specific to particular types of obligations of this state or of governmental units or to particular governmental units.
(3) A statute of another state, a foreign country, or a governmental unit of another state or a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority, or enforcement of a security interest created by the state, country, or governmental unit.
(4) The rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under Section 5114.

(d) This division does not apply to any of the following:

(1) A landlord’s lien, other than an agricultural lien.
(2) A lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but Section 9333 applies with respect to priority of the lien.
(3) An assignment of a claim for wages, salary, or other compensation of an employee.

(4) A sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose.

(5) An assignment of accounts, chattel paper, payment intangibles, or promissory notes which is for the purpose of collection only.

(6) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract.

(7) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness.

(8) Any loan made by an insurance company pursuant to the provisions of a policy or contract issued by it and upon the sole security of the policy or contract.

(9) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral.

(10) A right of recoupment or setoff, provided that both of the following sections apply:

    (A) Section 9340 applies with respect to the effectiveness of rights of recoupment or setoff against deposit accounts.

    (B) Section 9404 applies with respect to defenses or claims of an account debtor.

(11) The creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for each of the following:

    (A) Liens on real property in Sections 9203 and 9308.

    (B) Fixtures in Section 9334.

    (C) Fixture filings in Sections 9501, 9502, 9512, 9516, and 9519.

    (D) Security agreements covering personal and real property in Section 9604.

(12) An assignment of a claim arising in tort, other than a commercial tort claim, but Sections 9315 and 9322 apply with respect to proceeds and priorities in proceeds.

(13) An assignment of a deposit account in a consumer transaction, but Sections 9315 and 9322 apply with respect to proceeds and priorities in proceeds.

(14) Any security interest created by the assignment of the benefits of any public construction contract under the Improvement Act of 1911 (Division 7 (commencing with Section 5000), Streets and Highways Code).

(15) Transition property, as defined in Section 840 of the Public Utilities Code, except to the extent that the provisions of this division are referred to in Article 5.5 (commencing with Section 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code.
(16) A claim or right of an employee or employee’s dependents to receive workers’ compensation under Division 1 (commencing with Section 50) or Division 4 (commencing with Section 3200) of the Labor Code.

SEC. 2.5. Section 1871 of the Insurance Code is amended to read:

1871. The Legislature finds and declares as follows:

(a) The business of insurance involves many transactions that have the potential for abuse and illegal activities. There are numerous law enforcement agencies on the state and local levels charged with the responsibility for investigating and prosecuting fraudulent activity. This chapter is intended to permit the full utilization of the expertise of the commissioner and the department so that they may more effectively investigate and discover insurance frauds, halt fraudulent activities, and assist and receive assistance from federal, state, local, and administrative law enforcement agencies in the prosecution of persons who are parties in insurance frauds.

(b) Insurance fraud is a particular problem for automobile policyholders; fraudulent activities account for 15 to 20 percent of all auto insurance payments. Automobile insurance fraud is the biggest and fastest growing segment of insurance fraud and contributes substantially to the high cost of automobile insurance with particular significance in urban areas.

(c) Prevention of automobile insurance fraud will significantly reduce the incidence of severity and automobile insurance claim payments and will therefore produce a commensurate reduction in automobile insurance premiums.

(d) Workers’ compensation fraud harms employers by contributing to the increasingly high cost of workers’ compensation insurance and self-insurance and harms employees by undermining the perceived legitimacy of all workers’ compensation claims.

(e) Prevention of workers’ compensation insurance fraud may reduce the number of workers’ compensation claims and claim payments thereby producing a commensurate reduction in workers’ compensation costs. Prevention of workers’ compensation insurance fraud will assist in restoring confidence and faith in the workers’ compensation system, and will facilitate expedient and full compensation for employees injured at the workplace.

(f) The actions of employers who fraudulently underreport payroll or fail to report payroll for all employees to their insurance company in order to pay a lower workers’ compensation premium result in significant additional premium costs and an unfair burden to honest employers and their employees.

(g) The actions of employers who fraudulently fail to secure the payment of workers’ compensation as required by Section 3700 of the
Labor Code harm employees, cause unfair competition for honest employers, and increase costs to taxpayers.

(h) Health insurance fraud is a particular problem for health insurance policyholders. Although there are no precise figures, it is believed that fraudulent activities account for billions of dollars annually in added health care costs nationally. Health care fraud causes losses in premium dollars and increases health care costs unnecessarily.

SEC. 2.7. Section 1871.4 of the Insurance Code is amended to read:

1871.4. (a) It is unlawful to do any of the following:

(1) Make or cause to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying any compensation, as defined in Section 3207 of the Labor Code.

(2) Present or cause to be presented any knowingly false or fraudulent written or oral material statement in support of, or in opposition to, any claim for compensation for the purpose of obtaining or denying any compensation, as defined in Section 3207 of the Labor Code.

(3) Knowingly assist, abet, conspire with, or solicit any person in an unlawful act under this section.

(4) Make or cause to be made any knowingly false or fraudulent statements with regard to entitlement to benefits with the intent to discourage an injured worker from claiming benefits or pursuing a claim.

For the purposes of this subdivision, “statement” includes, but is not limited to, any notice, proof of injury, bill for services, payment for services, hospital or doctor records, X-ray, test results, medical-legal expense as defined in Section 4620 of the Labor Code, other evidence of loss, injury, or expense, or payment.

(5) Make or cause to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying any of the benefits or reimbursement provided in the Return-to-Work Program established under Section 139.48 of the Labor Code.

(6) Make or cause to be made any knowingly false or fraudulent material statement or material representation for the purpose of discouraging an employer from claiming any of the benefits or reimbursement provided in the Return-to-Work Program established under Section 139.48 of the Labor Code.

(b) Every person who violates subdivision (a) shall be punished by imprisonment in county jail for one year, or in the state prison, for two, three, or five years, or by a fine not exceeding fifty thousand dollars ($50,000) or double the value of the fraud, whichever is greater, or by both imprisonment and fine. Restitution shall be ordered, including restitution for any medical evaluation or treatment services obtained or
provided. The court shall determine the amount of restitution and the person or persons to whom the restitution shall be paid.

(c) Any person who violates subdivision (a) and who has a prior felony conviction of that subdivision, of former Section 556, of former Section 1871.1, or of Section 548 or 550 of the Penal Code, shall receive a two-year enhancement for each prior conviction in addition to the sentence provided in subdivision (b).

The existence of any fact that would subject a person to a penalty enhancement shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(d) This section shall not be construed to preclude the applicability of any other provision of criminal law that applies or may apply to any transaction.

SEC. 3. Section 1872.83 of the Insurance Code is amended to read:

1872.83. (a) The commissioner shall ensure that the Bureau of Fraudulent Claims aggressively pursues all reported incidents of probable workers’ compensation fraud, as defined in Sections 11760 and 11880, in subdivision (a) of Section 1871.4, and in Section 549 of the Penal Code, and forwards to the appropriate disciplinary body the names, along with all supporting evidence, of any individuals licensed under the Business and Professions Code who are suspected of actively engaging in fraudulent activity. The Bureau of Fraudulent Claims shall forward to the Insurance Commissioner or the Director of Industrial Relations, as appropriate, the name, along with all supporting evidence, of any insurer, as defined in subdivision (c) of Section 1877.1, suspected of actively engaging in the fraudulent denial of claims.

(b) To fund increased investigation and prosecution of workers’ compensation fraud, and of willful failure to secure payment of workers’ compensation, in violation of Section 3700.5 of the Labor Code, there shall be an annual assessment as follows:

(1) The aggregate amount of the assessment shall be determined by the Fraud Assessment Commission, which is hereby established. The commission shall be composed of seven members consisting of two representatives of organized labor, two representatives of self-insured employers, one representative of insured employers, one representative of workers’ compensation insurers, and the President of the State Compensation Insurance Fund, or his or her designee.

The Governor shall appoint members representing organized labor, self-insured employers, insured employers, and insurers. The term of office of members of the commission shall be four years, and a member shall hold office until the appointment of a successor. The President of the State Compensation Insurance Fund shall be an ex officio, voting
member of the commission. Members of the commission shall receive one hundred dollars ($100) for each day of actual attendance at commission meetings and other official commission business, and shall also receive their actual and necessary traveling expenses incurred in the performance of commission duties. Payment of per diem and travel expenses shall be made from the Workers’ Compensation Fraud Account in the Insurance Fund, established in paragraph (4), upon appropriation by the Legislature.

(2) In determining the aggregate amount of the assessment, the Fraud Assessment Commission shall consider the advice and recommendations of the Bureau of Fraudulent Claims and the commissioner.

(3) The aggregate amount of the assessment shall be collected by the Director of Industrial Relations pursuant to Section 62.6 of the Labor Code. The Fraud Assessment Commission shall annually advise the Director of Industrial Relations, not later than March 15, of the aggregate amount to be assessed for the next fiscal year.

(4) The amount collected, together with the fines collected for violations of the unlawful acts specified in Sections 1871.4, 11760, and 11880, Section 3700.5 of the Labor Code, and Section 549 of the Penal Code, shall be deposited in the Workers’ Compensation Fraud Account in the Insurance Fund, which is hereby created, and may be used, upon appropriation by the Legislature, only for enhanced investigation and prosecution of workers’ compensation fraud and of willful failure to secure payment of workers’ compensation as provided in this section.

(c) For each fiscal year, the total amount of revenues derived from the assessment pursuant to subdivision (b) shall, together with amounts collected pursuant to fines imposed for unlawful acts described in Sections 1871.4, 11760, and 11880, Section 3700.5 of the Labor Code, and Section 549 of the Penal Code, not be less than three million dollars ($3,000,000). Any funds appropriated by the Legislature pursuant to subdivision (b) that are not expended in the fiscal year for which they have been appropriated, and that have not been allocated under subdivision (f), shall be applied to satisfy for the immediately following fiscal year the minimum total amount required by this subdivision. In no case may that money be transferred to the General Fund.

(d) After incidental expenses, at least 40 percent of the funds to be used for the purposes of this section shall be provided to the Bureau of Fraudulent Claims of the Department of Insurance for enhanced investigative efforts, and at least 40 percent of the funds shall be distributed to district attorneys, pursuant to a determination by the commissioner with the advice and consent of the bureau and the Fraud Assessment Commission, as to the most effective distribution of moneys for purposes of the investigation and prosecution of workers’
compensation fraud cases and cases relating to the willful failure to secure the payment of workers’ compensation. Each district attorney seeking a portion of the funds shall submit to the commissioner an application setting forth in detail the proposed use of any funds provided. A district attorney receiving funds pursuant to this subdivision shall submit an annual report to the commissioner with respect to the success of his or her efforts. Upon receipt, the commissioner shall provide copies to the bureau and the Fraud Assessment Commission of any application, annual report, or other documents with respect to the allocation of money pursuant to this subdivision. Both the application for moneys and the distribution of moneys shall be public documents. Information submitted to the commissioner pursuant to this section concerning criminal investigations, whether active or inactive, shall be confidential.

(e) If a district attorney is determined by the commissioner to be unable or unwilling to investigate and prosecute workers’ compensation fraud claims or claims relating to the willful failure to secure the payment of workers’ compensation, the commissioner shall discontinue distribution of funds allocated for that county and may redistribute those funds according to this subdivision.

(1) The commissioner shall promptly determine whether any other county could assert jurisdiction to prosecute the fraud claims or claims relating to the willful failure to secure the payment of workers’ compensation that would have been brought in the nonparticipating county, and if so, the commissioner may award funds to conduct the prosecutions redirected pursuant to this subdivision. These funds may be in addition to any other fraud prosecution funds or claims relating to the willful failure to secure the payment of workers’ compensation prosecution otherwise awarded under this section. Any district attorney receiving funds pursuant to this subdivision shall first agree that the funds shall be used solely for investigating and prosecuting those cases of workers’ compensation fraud or claims relating to the willful failure to secure the payment of workers’ compensation that are redirected pursuant to this subdivision and submit an annual report to the commissioner with respect to the success of the district attorney’s efforts. The commissioner shall keep the Fraud Assessment Commission fully informed of all reallocations of funds under this paragraph.

(2) If the commissioner determines that no district attorney is willing or able to investigate and prosecute the workers’ compensation fraud claims or claims relating to the willful failure to secure the payment of workers’ compensation arising in the nonparticipating county, the commissioner, with the advice and consent of the Fraud Assessment Commission, may award to the Attorney General some or all of the funds previously awarded to the nonparticipating county. Before the
commissioner may award any funds, the Attorney General shall submit to the commissioner an application setting forth in detail his or her proposed use of any funds provided and agreeing that any funds awarded shall be used solely for investigating and prosecuting those cases of workers’ compensation fraud or claims relating to the willful failure to secure the payment of workers’ compensation that are redirected pursuant to this subdivision. The Attorney General shall submit an annual report to the commissioner with respect to the success of the fraud prosecution efforts of his or her office.

(3) Neither the Attorney General nor any district attorney shall be required to relinquish control of any investigation or prosecution undertaken pursuant to this subdivision unless the commissioner determines that satisfactory progress is no longer being made on the case or the case has been abandoned.

(4) A county that has become a nonparticipating county due to the inability or unwillingness of its district attorney to investigate and prosecute workers’ compensation fraud or the willful failure to secure the payment of workers’ compensation shall not become eligible to receive funding under this section until it has submitted a new application that meets the requirements of subdivision (d) and the applicable regulations.

(f) If in any fiscal year the Bureau of Fraudulent Claims does not use all of the funds made available to it under subdivision (d), any remaining funds may be distributed to district attorneys pursuant to a determination by the commissioner in accordance with the same procedures set forth in subdivision (d).

(g) The commissioner shall adopt rules and regulations to implement this section in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Included in the rules and regulations shall be the criteria for redistributing funds to district attorneys and the Attorney General. The adoption of the rules and regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare.

(h) The department shall report on an annual basis to the Legislature and the Fraud Assessment Commission on the activities of the Bureau of Fraudulent Claims and district attorneys supported by the funds provided by this section.

The annual report shall include, but is not limited to, all of the following information for the department and each district attorney’s office:

(1) All allocations, distributions, and expenditures of funds.

(2) The number of search warrants issued.
(3) The number of arrests and prosecutions, and the aggregate number of parties involved in each.

(4) The number of convictions and the names of all convicted fraud perpetrators.

(5) The estimated value of all assets frozen, penalties assessed, and restitutions made for each conviction.

(6) Any additional items necessary to fully inform the Fraud Assessment Commission and the Legislature of the fraud-fighting efforts financed through this section.

(i) In order to meet the requirements of subdivision (g), the department shall submit a biannual information request to those district attorneys who have applied for and received funding through the annual assessment process under this section.

(j) Assessments levied or collected to fight workers’ compensation fraud and insurance fraud are not taxes. Those funds are entrusted to the state to fight fraud and the willful failure to secure the payment of workers’ compensation by funding state and local investigation and prosecution efforts. Accordingly, any funds resulting from assessments, fees, penalties, fines, restitution, or recovery of costs of investigation and prosecution deposited in the Insurance Fund shall not be deemed “unexpended” funds for any purpose and, if remaining in that account at the end of any fiscal year, shall be applied as provided in subdivision (f) and to offset or augment subsequent years’ program funding.

(k) The Bureau of State Audits shall evaluate the effectiveness of the efforts of the Fraud Assessment Commission, the Bureau of Fraudulent Claims, the Department of Insurance, and the Department of Industrial Relations, as well as local law enforcement agencies, including district attorneys, in identifying, investigating, and prosecuting workers’ compensation fraud and the willful failure to secure payment of workers’ compensation. The report shall specifically identify areas of deficiencies. Included in this report shall be recommendations on whether the current program provides the appropriate levels of accountability for those responsible for the allocation and expenditure of funds raised from the assessment provided in this section. The Bureau of State Audits shall submit a report to the Chairperson of the Senate Committee on Labor and Industrial Relations and the Chairperson of the Assembly Committee on Insurance on or before May 1, 2004.

SEC. 4. Section 11721 of the Insurance Code is amended to read:

11721. An insurer desiring to write workers’ compensation insurance shall maintain or provide occupational safety and health loss control consultation services pursuant to Section 6354.5 of the Labor Code.

SEC. 5. Section 11734 of the Insurance Code is amended to read:
11734. (a) Every workers’ compensation insurer shall adhere to a uniform experience rating plan filed with the commissioner by a rating organization designated by the commissioner and subject to his or her disapproval.

(b) The commissioner shall designate a rating organization to assist him or her in gathering, compiling, and reporting relevant statistical information, and to develop a classification system. An insurer may develop its own classification system upon which a rate may be made or adopt the classification system developed by the designated rating organization; provided, however, that any classification system developed by an insurer must be filed with the commissioner 30 days prior to its use. The commissioner shall disapprove a classification system filed by an insurer pursuant to this section if the insurer fails to demonstrate that the data thereby produced can be reported consistent with the uniform statistical plan or the classification system developed by the rating organization. Every workers’ compensation insurer shall record and report its workers’ compensation experience to the designated rating organization as set forth in the uniform statistical plan approved by the commissioner.

(c) The designated rating organization shall develop and file manual rules, subject to the approval of the commissioner, reasonably related to the recording and reporting of data pursuant to the uniform statistical plan, uniform experience rating plan, and any classification systems that may be in effect. Every workers’ compensation insurer shall adhere to the approved manual rules and experience rating plan in writing and reporting its business. No insurer shall agree with any other insurer or with a rating organization to adhere to manual rules that are not reasonably related to the recording and reporting of data pursuant to the uniform statistical plan or classification system developed by the rating organization.

(d) The designated rating organization shall also develop and file with the commissioner a weekly premium per employee for each classification used or proposed for use by that organization. The weekly premium shall be developed by applying the proposed rate for each classification to the state average weekly wage. For the purpose of this section, “state average weekly wage” means the average weekly wage paid by employers to employees covered by unemployment insurance as reported by the United States Department of Labor for California for the 12 months ending March 31 of the calendar year preceding the year in which the injury occurred.

SEC. 6. Section 11737 of the Insurance Code is amended to read:

11737. (a) The commissioner may disapprove a rate if the insurer fails to comply with the filing requirements under Section 11735.
(b) If the commissioner believes that rates may violate any of the requirements of this article, he or she shall call a hearing prior to any disapproval. The commissioner shall disapprove a rate if he or she finds that the rate would, if continued in use, tend to impair or threaten the solvency of an insurer or tend to create a monopoly in the market pursuant to Section 11732.

(c) Every insurer or rating organization shall provide within this state reasonable means whereby any person aggrieved by the application of its filings may be heard on written request to review the manner in which the rating system has been applied in connection with the insurance afforded or offered. If the insurer or rating organization fails to grant or reject the request within 30 days, the applicant may proceed in the same manner as if the application had been rejected. Any party affected by the action of the insurer or rating organization on the request may, within 30 days after written notice of the action, appeal to the commissioner who, after a hearing held within 60 days from the date on which the party requests the appeal, or longer upon agreement of the parties and not less than 10 days’ written notice to the appellant and to the insurer or rating organization, may affirm, modify, or reverse that action. If the commissioner has information on the subject from which the appeal is taken and believes that a reasonable basis for the appeal does not exist or that the appeal is not made in good faith, the commissioner may deny the appeal without a hearing. The denial shall be in writing and shall set forth the basis for the denial and shall be served on all parties.

(d) If the commissioner disapproves a rate, the commissioner shall issue an order specifying in what respects it fails to meet the requirements of this article and stating when within a reasonable period thereafter that rate shall be discontinued for any policy issued or renewed after a date specified in the order. The order shall be issued within 30 days after the close of the hearing or within any reasonable time extension as the commissioner may fix. The order may include a provision for premium adjustment for the period after the effective date of the order for policies in effect on that date.

(e) Whenever an insurer has no legally effective rates as a result of the commissioner’s disapproval of rates or other act, the commissioner shall on request of the insurer specify interim rates for the insurer that are adequate to protect the interests of all parties and may order that a specified portion of the premiums be placed in an escrow account approved by him or her. When new rates become legally effective, the commissioner shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately, except that refunds of less than ten dollars ($10) per policyholder shall not be required.

(f) Notwithstanding any other provision of law, an insurer may increase rates on policies with inception dates prior to January 1, 2003,
in an amount no greater than the pure premium rate increase approved by the commissioner reflecting the cost of the change in benefit levels authorized by the act adding this subdivision.

SEC. 6.5. Section 11741 is added to the Insurance Code, to read:

11741. (a) Notwithstanding any other provision of this code or the Labor Code, the commissioner shall not have the authority to disapprove a rate, discount, or credit established by any insurer for any policy issued to an employer for coverage of employees participating in a program established in accordance with Section 3201.5 of the Labor Code.

(b) The Department of Insurance shall report to the Legislature on or before December 31, 2005, regarding the adequacy of rates charged by insurers under subdivision (a) between January 1, 2003, to December 31, 2004, inclusive. Insurers shall supply the Department of Insurance with any and all necessary requested information in order for the Department of Insurance to prepare and provide the report set forth in this section.

(c) This section shall not apply to policies issued or renewed on or after January 1, 2007.

(d) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

SEC. 7. Section 11770 of the Insurance Code is amended to read:

11770. The State Compensation Insurance Fund is continued in existence, to be administered by its board of directors for the purpose of transacting workers’ compensation insurance, and insurance against the expense of defending any suit for serious and willful misconduct, against an employer or his or her agent, and insurance to employees and other persons of the compensation fixed by the workers’ compensation laws for employees and their dependents. Any appropriation made therefrom or thereto before the effective date of this code shall continue to be available for the purposes for which it was made.

The board of directors of the State Compensation Insurance Fund is composed of five members, one of whom shall be from organized labor, appointed by the Governor. The Governor shall appoint the chairperson who shall serve at the pleasure of the Governor. The Director of Industrial Relations, the Speaker of the Assembly, and the President pro Tempore of the Senate, or their designees, shall be ex officio, nonvoting members of the board, and shall not be counted as members of the board for quorum purposes or any other purpose.

The term of office of the members of the board, other than that of the director, the Speaker of the Assembly, and the President pro Tempore of the Senate, shall be five years and they shall hold office until the appointment and qualification of their successors. The term of office of the first additional member appointed pursuant to amendment of this section effective January 1, 1990, shall expire on January 15, 1995.
Commencing January 15, 1991, the terms of office of other members shall be extended to five years as each four-year term expires, so that one member’s term of office expires January 15 of each year. Each member shall receive his or her actual and necessary traveling expenses incurred in the performance of his or her duty as a member and, with the exception of the ex officio members, one hundred dollars ($100) for each day of his or her actual attendance at meetings of the board. In order to qualify for membership on the board, each member other than the ex officio members shall have been a policyholder or the employee or member of a policyholder in the State Compensation Insurance Fund for one year immediately preceding the appointment, and must continue in this status during the period of his or her membership.

SEC. 8. Section 11771.5 is added to the Insurance Code, to read:

11771.5. Any advertising of the State Compensation Insurance Fund shall include the following disclaimer: “The State Compensation Insurance Fund is not a branch of the State of California.”

SEC. 9. Section 11783 of the Insurance Code is amended to read:

11783. The State Compensation Insurance Fund may:

(a) Sue and be sued in all actions arising out of any act or omission in connection with its business or affairs.

(b) Enter into any contracts or obligations relating to the State Compensation Insurance Fund which are authorized or permitted by law.

(c) Invest and reinvest the moneys belonging to the fund as provided by this chapter.

(d) Conduct all business and affairs and perform all acts relating to the fund whether or not specifically designated in this chapter.

(e) Commission an independent study, with the assistance of an investment banking firm, to determine the feasibility of the State Compensation Insurance Fund issuing bonds or securities. The study may include, among other things, the purpose for issuing bonds and any potential adverse consequences that may arise from that issuance.

SEC. 10. Section 11784 of the Insurance Code is amended to read:

11784. In conducting the business and affairs of the fund, the president of the fund may do any of the following:

(a) Enter into contracts of workers’ compensation insurance.

(b) Sell annuities covering compensation benefits.

(c) Decline to insure any risk in which the minimum requirements of the industrial accident prevention authorities with regard to construction, equipment, and operation are not complied with, or which is beyond the safe carrying of the fund. Otherwise, he or she shall not refuse to insure any workers’ compensation risk under state law, tendered with the premium therefor.

(d) Reinsure any risk or any part thereof.
(e) Cause to be inspected and audited the payrolls of employers applying to the fund for insurance.

(f) Make rules for the settlement of claims against the fund and determine to whom and through whom the payments of compensation are to be made.

(g) Contract with physicians and surgeons, and hospitals, for medical and surgical treatment and the care and nursing of injured persons entitled to benefits from the fund.

SEC. 11. Section 11785 of the Insurance Code is amended to read:

11785. The board of directors shall appoint a president of the fund and fix his or her salary. The president shall manage and conduct the business and affairs of the fund under the general direction and subject to the approval of the board of directors, and shall perform other duties as the board of directors prescribes.

SEC. 12. Section 11786 of the Insurance Code is amended to read:

11786. Before entering on the duties of his or her office, the president shall qualify by giving an official bond approved by the board of directors in the sum of fifty thousand dollars ($50,000) and by taking and subscribing to an official oath. The approval of the board shall be by written endorsement on the bond. The bond shall be filed in the office of the Secretary of State.

SEC. 13. Section 11787 of the Insurance Code is amended to read:

11787. The board of directors may delegate to the president of the fund, under those rules and regulations and subject to those conditions as it from time to time prescribes, any power, function, or duty conferred by law on the board of directors in connection with the fund or in connection with the administration, management, and conduct of the business and affairs of the fund. The president may exercise those powers and functions and perform those duties with the same force and effect as the board of directors, but subject to its approval.

SEC. 14. Section 11820 of the Insurance Code is amended to read:

11820. Subject to the provisions of Article 2 (commencing with Section 11730) of Chapter 3, the board of directors shall establish the rates to be charged by the State Compensation Insurance Fund for insurance issued by it. These rates shall be fixed with due regard to the physical hazards of each industry, occupation, or employment.

SEC. 15. Section 11822 of the Insurance Code is amended to read:

11822. The rates fixed by the board of directors shall be that percentage of the payroll of any employer which, in the long run and on the average, will produce a sufficient sum, when invested in a way as to realize the maximum return consistent with safe and prudent management practices:

(a) To carry all claims to maturity. The rates shall be based upon the “reserve” and not upon the “assessment” plan.
(b) To meet the reasonable expenses of conducting the business of the fund.
(c) To produce a reasonable surplus to cover the catastrophe hazard.

SEC. 16. Section 11823 of the Insurance Code is repealed.
SEC. 17. Section 11860 of the Insurance Code is amended to read:
11860. Each quarter the president of the State Compensation Insurance Fund shall make a report to the Governor of the business done by the State Compensation Insurance Fund during the previous quarter and a statement of the fund’s resources and liabilities at the close of that previous quarter. The State Compensation Insurance Fund shall, at its own expense, hire a recognized firm of certified public accountants to audit annually the books and records of the State Compensation Insurance Fund and cause an abstract summary thereof to be published one or more times in at least two newspapers of general circulation in the state. The president of the fund shall additionally provide the commissioner with all reports required by law to be made to him or her by other insurers.

SEC. 18. Section 62.6 of the Labor Code is amended to read:
62.6. (a) The director shall levy and collect assessments from employers in accordance with subdivision (b), as necessary, to collect the aggregate amount determined by the Fraud Assessment Commission pursuant to Section 1872.83 of the Insurance Code. Revenues derived from the assessments shall be deposited in the Workers’ Compensation Fraud Account in the Insurance Fund and shall only be expended, upon appropriation by the Legislature, for the investigation and prosecution of workers’ compensation fraud and the willful failure to secure payment of workers’ compensation, as prescribed by Section 1872.83 of the Insurance Code.

(b) Assessments shall be levied by the director upon all employers as defined in Section 3300. The total amount of the assessment shall be allocated between self-insured employers and insured employers in proportion to payroll respectively paid in the most recent year for which payroll information is available. The director shall promulgate reasonable rules and regulations governing the manner of collection of the assessment. The rules and regulations shall require the assessment to be paid by self-insurers to be expressed as a percentage of indemnity paid during the most recent year for which information is available, and the assessment to be paid by insured employers to be expressed as a percentage of premium. In no event shall the assessment paid by insured employers be considered a premium for computation of a gross premium tax or agents’ commission.

SEC. 19. Section 75 of the Labor Code is amended to read:
75. (a) There is in the department the Commission on Health and Safety and Workers’ Compensation. The commission shall be composed
of eight voting members. Four voting members shall represent organized labor, and four voting members shall represent employers. Not more than one employer member shall represent public agencies. Two of the employer and two of the labor members shall be appointed by the Governor. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint one employer and one labor representative. The public employer representative shall be appointed by the Governor. No action of the commission shall be valid unless agreed to by a majority of the membership and by not less than two members representing organized labor and two members representing employers.

(b) The commission shall select one of the members representing organized labor to chair the commission during the 1994 calendar year, and thereafter the commission shall alternatively select an employer and organized labor representative to chair the commission for one-year terms.

(c) The initial terms of the members of the commission shall be four years, and they shall hold office until the appointment of a successor. However, the initial terms of one employer and one labor member appointed by the Governor shall expire on December 31, 1995; the initial terms of the members appointed by the Senate Committee on Rules shall expire December 31, 1996; the initial terms of the members appointed by the Speaker of the Assembly shall expire on December 31, 1997; and the initial term of one employer and one labor member appointed by the Governor shall expire on December 31, 1998. Any vacancy shall be filled by appointment to the unexpired term.

(d) The commission shall meet every other month and upon the call of the chair. Meetings shall be open to the public. Members of the commission shall receive one hundred dollars ($100) for each day of their actual attendance at meetings of the commission and other official business of the commission and shall also receive their actual and necessary traveling expenses incurred in the performance of their duty as a member. Payment of per diem and traveling expenses shall be made from the Workers’ Compensation Administration Revolving Fund, when appropriated by the Legislature.

SEC. 20. Section 77 of the Labor Code is amended to read:

77. (a) The commission shall conduct a continuing examination of the workers’ compensation system, as defined in Section 4 of Article XIV of the California Constitution, and of the state’s activities to prevent industrial injuries and occupational diseases. The commission may conduct or contract for studies it deems necessary to carry out its responsibilities. In carrying out its duties, the commission shall examine other states’ workers’ compensation programs and activities to prevent industrial injuries and occupational diseases. All state departments and agencies, and any rating organization licensed by the Insurance
Commissioner pursuant to Article 3 (commencing with Section 11750) of Chapter 3 of Part 3 of Division 2 of the Insurance Code, shall cooperate with the commission and upon reasonable request provide information and data in their possession that the commission deems necessary for the purpose of carrying out its responsibilities. The commission shall issue an annual report on the state of the workers’ compensation system, including recommendations for administrative or legislative modifications which would improve the operation of the system. The report shall be made available to the Governor, the Legislature, and the public on request.

(b) On or before July 1, 2003, and periodically thereafter as it deems necessary, the commission shall issue a report and recommendations on the improvement and simplification of the notices required to be provided by insurers and self-insured employers.

(c) The commission succeeds to, and is vested with, all of the powers, duties, purposes, responsibilities, and jurisdiction of the Health and Safety Commission which is hereby abolished, including the administration of grants to assist in establishing effective occupational injury and illness prevention programs.

SEC. 21. Section 78 of the Labor Code is amended to read:

78. (a) The commission shall review and approve applications from employers and employee organizations, as well as applications submitted jointly by an employer organization and an employee organization, for grants to assist in establishing effective occupational injury and illness prevention programs. The commission shall establish policies for the evaluation of these applications and shall give priority to applications proposing to target high-risk industries and occupations, including those with high injury or illness rates, and those in which employees are exposed to one or more hazardous substances or conditions or where there is a demonstrated need for research to determine effective strategies for the prevention of occupational illnesses or injuries.

(b) Civil and administrative penalties assessed and collected pursuant to Sections 129.5 and 4628 shall be deposited in the Workers’ Compensation Administration Revolving Fund. Moneys in the fund, when appropriated by the Legislature, shall be expended by the department, upon approval by the commission, for funding the grants under subdivision (a), and by the commission for payment of the commission’s expenses incurred under this chapter.

SEC. 22. Section 90.3 is added to the Labor Code, to read:

90.3. (a) It is the policy of this state to vigorously enforce the laws requiring employers to secure the payment of compensation as required by Section 3700 and to protect employers who comply with the law from
those who attempt to gain a competitive advantage at the expense of their workers by failing to secure the payment of compensation.

(b) In order to ensure that the laws requiring employers to secure the payment of compensation are adequately enforced, the Labor Commissioner shall establish and maintain a program for targeting employers in industries with the highest incidence of unlawfully uninsured employers. The industries and employers shall be identified from data from the Uninsured Employers’ Fund, the Employment Development Department, the rating organizations licensed by the Insurance Commissioner pursuant to Article 3 (commencing with Section 11750) of Chapter 3 of Part 3 of Division 2 of the Insurance Code, and any other sources deemed likely to lead to the identification of unlawfully uninsured employers. All state departments and agencies and any rating organization licensed by the Insurance Commissioner pursuant to Article 3 (commencing with Section 11750) of Chapter 3 of Part 3 of Division 2 of the Insurance Code shall cooperate with the Labor Commissioner and on reasonable request provide information and data in their possession reasonably necessary to carry out the program.

(c) As part of the program, the Labor Commissioner shall establish procedures for ensuring that employers with payroll but with no record of workers’ compensation coverage are contacted and, if no valid reason for the lack of record of coverage is shown, inspected on a priority basis.

(d) The Labor Commissioner shall annually report to the Legislature, not later than March 1, concerning the effectiveness of the program. The report shall include, but not be limited to, all of the following:

1. The number of unlawfully uninsured employers identified pursuant to the program.
2. The number of employers matched to records of insurance coverage.
3. The number of employers notified that there was no record of their insurance coverage.
4. The number of employers inspected.
5. The number and amount of penalties assessed pursuant to Section 3722 as a result of the program.

SEC. 23. Section 90.5 of the Labor Code is amended to read:

90.5. (a) It is the policy of this state to vigorously enforce minimum labor standards in order to ensure employees are not required or permitted to work under substandard unlawful conditions or for employers that have not secured the payment of compensation, and to protect employers who comply with the law from those who attempt to gain a competitive advantage at the expense of their workers by failing to comply with minimum labor standards.

(b) In order to ensure that minimum labor standards are adequately enforced, the Labor Commissioner shall establish and maintain a field
enforcement unit, which shall be administratively and physically separate from offices of the division that accept and determine individual employee complaints. The unit shall have offices in Los Angeles, San Francisco, San Jose, San Diego, Sacramento, and any other locations that the Labor Commissioner deems appropriate. The unit shall have primary responsibility for administering and enforcing those statutes and regulations most effectively enforced through field investigations, including Sections 226, 1021, 1021.5, 1193.5, 1193.6, 1194.5, 1197, 1198, 1771, 1776, 1777.5, 2651, 2673, 2675, and 3700, in accordance with the plan adopted by the Labor Commissioner pursuant to subdivision (c). Nothing in this section shall be construed to limit the authority of this unit in enforcing any statute or regulation in the course of its investigations.

(c) The Labor Commissioner shall adopt an enforcement plan for the field enforcement unit. The plan shall identify priorities for investigations to be undertaken by the unit that ensure the available resources will be concentrated in industries, occupations, and areas in which employees are relatively low paid and unskilled, and those in which there has been a history of violations of the statutes cited in subdivision (b), and those with high rates of noncompliance with Section 3700.

(d) The Labor Commissioner shall annually report to the Legislature, not later than March 1, concerning the effectiveness of the field enforcement unit. The report shall include, but not be limited to, all of the following:

1. The enforcement plan adopted by the Labor Commissioner pursuant to subdivision (c), and the rationale for the priorities identified in the plan.
2. The number of establishments investigated by the unit, and the number of types of violations found.
3. The amount of wages found to be unlawfully withheld from workers, and the amount of unpaid wages recovered for workers.
4. The amount of penalties and unpaid wages transferred to the General Fund as a result of the efforts of the unit.

SEC. 23.5. The heading of Chapter 5 (commencing with Section 110) of Division 1 of the Labor Code is amended to read:

CHAPTER 5. DIVISION OF WORKERS' COMPENSATION

SEC. 24. Section 110 of the Labor Code is amended to read:

110. As used in this chapter:
(a) “Appeals board” means the Workers’ Compensation Appeals Board. The title of a member of the board is “commissioner.”
(b) “Administrative director” means the Administrative Director of the Division of Workers’ Compensation.

d) “Medical director” means the physician appointed by the Industrial Medical Council pursuant to Section 122.

e) “Qualified medical evaluator” means physicians appointed by the Industrial Medical Council pursuant to Section 139.2.

(f) “Court administrator” means the administrator of the workers’ compensation adjudicatory process at the trial level.

SEC. 25. Section 123 of the Labor Code is amended to read:

123. The administrative director may employ necessary assistants, officers, experts, statisticians, actuaries, accountants, workers’ compensation administrative law judges, stenographic shorthand reporters, legal secretaries, disability evaluation raters, program technicians, and other employees to implement new, efficient court management systems. The salaries of the workers’ compensation administrative law judges shall be fixed by the Department of Personnel Administration for a class of positions which perform judicial functions.

SEC. 26. Section 123.3 of the Labor Code is amended to read:

123.3. Any official reporter employed by the administrative director shall render stenographic or clerical assistance as directed by the presiding workers’ compensation administrative law judge of the office to which the reporter is assigned, when the presiding workers’ compensation administrative law judge determines that the reporter is not engaged in the performance of any other duty imposed by law.

SEC. 27. Section 123.5 of the Labor Code is amended to read:

123.5. (a) Workers’ compensation administrative law judges employed by the administrative director and supervised by the court administrator pursuant to this chapter shall be taken from an eligible list of attorneys licensed to practice law in this state, who have the qualifications prescribed by the State Personnel Board. In establishing eligible lists for this purpose, state civil service examinations shall be conducted in accordance with the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code). Every workers’ compensation judge shall maintain membership in the State Bar of California during his or her tenure.

A workers’ compensation administrative law judge may not receive his or her salary as a workers’ compensation administrative law judge while any cause before the workers’ compensation administrative law judge remains pending and undetermined for 90 days after it has been submitted for decision.

(b) All workers’ compensation administrative law judges appointed on or after January 1, 2003, shall be attorneys licensed to practice law
in California for five or more years prior to their appointment and shall have experience in workers’ compensation law.

c) All workers’ compensation administrative law judges shall be subject to the jurisdiction of the Commission on Judicial Performance.

SEC. 28. Section 123.6 of the Labor Code is amended to read:

123.6. (a) All workers’ compensation administrative law judges employed by the administrative director and supervised by the court administrator shall subscribe to the Code of Judicial Ethics adopted by the Supreme Court pursuant to subdivision (m) of Section 18 of Article VI of the California Constitution for the conduct of judges and shall not otherwise, directly or indirectly, engage in conduct contrary to that code or to the commentary to the Code of Judicial Ethics made by the California Judges Association.

The administrative director shall adopt regulations to enforce this section after consideration of recommendations from the court administrator. Existing regulations shall remain in effect until new regulations based on the recommendations of the court administrator have become effective. To the extent possible, the rules shall be consistent with the procedures established by the Commission on Judicial Performance for regulating the activities of state judges, and, to the extent possible, with the gift, honoraria, and travel restrictions on legislators contained in the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

(b) Honoraria or travel allowed by the court administrator, and not otherwise prohibited by this section in connection with any public or private conference, convention, meeting, social event, or like gathering, the cost of which is significantly paid for by attorneys who practice before the board, may not be accepted unless the court administrator has provided prior approval in writing to the workers’ compensation administrative law judge allowing him or her to accept those payments.

SEC. 29. Section 124 of the Labor Code is amended to read:

124. (a) In administering and enforcing this division and Division 4 (commencing with Section 3200), the division shall protect the interests of injured workers who are entitled to the timely provision of compensation.

(b) The administrative director, in consultation with the court administrator, shall advise the Industrial Medical Council on a form adopted by the council whether individual qualified medical evaluators have prepared formal medical evaluations that can be satisfactorily rated by the office.

(c) Forms and notices required to be given to employees by the division shall be in English and Spanish.

SEC. 30. Section 127 of the Labor Code is amended to read:

127. The administrative director and court administrator may:
(a) Charge and collect fees for copies of papers and records, for certified copies of official documents and orders or of the evidence taken or proceedings had, for transcripts of testimony, and for inspection of case files not stored in the place where the inspection is requested. The administrative director shall fix those fees in an amount sufficient to recover the actual costs of furnishing the services. No fees for inspection of case files shall be charged to an injured employee or his or her representative.

(b) Publish and distribute from time to time, in addition to the reports to the Governor, further reports and pamphlets covering the operations, proceedings, and matters relative to the work of the division.

(c) Prepare, publish, and distribute an office manual, for which a reasonable fee may be charged, and to which additions, deletions, amendments, and other changes from time to time may be adopted, published, and distributed, for which a reasonable fee may be charged for the revision, or for which a reasonable fee may be fixed on an annual subscription basis.

(d) Fix and collect reasonable charges for publications issued.

SEC. 31. Section 127.5 is added to the Labor Code, to read:

127.5. In the exercise of his or her functions, the court administrator shall further the interests of uniformity and expedition of proceedings before workers’ compensation administrative law judges, assure that all workers’ compensation administrative law judges are qualified and adhere to deadlines mandated by law or regulations, and manage district office procedural matters at the trial level.

SEC. 32. Section 127.6 is added to the Labor Code, to read:

127.6. (a) The administrative director shall, in consultation with the Commission on Health and Safety and Workers’ Compensation, the Industrial Medical Council, other state agencies, and researchers and research institutions with expertise in health care delivery and occupational health care service, conduct a study of medical treatment provided to workers who have sustained industrial injuries and illnesses. The study shall focus on, but not be limited to, all of the following:

(1) Factors contributing to the rising costs and utilization of medical treatment and case management in the workers’ compensation system.

(2) An evaluation of case management procedures that contribute to or achieve early and sustained return to work within the employee’s temporary and permanent work restrictions.

(3) Performance measures for medical services that reflect patient outcomes.

(4) Physician utilization, quality of care, and outcome measurement data.

(5) Patient satisfaction.
(b) The administrative director shall begin the study on or before July 1, 2003, and shall report and make recommendations to the Legislature based on the results of the study on or before July 1, 2004.

(c) In implementing this section, the administrative director shall ensure the confidentiality and protection of patient-specific data.

SEC. 33. Section 129 of the Labor Code is amended to read:

129. (a) To make certain that injured workers, and their dependents in the event of their death, receive promptly and accurately the full measure of compensation to which they are entitled, the administrative director shall audit insurers, self-insured employers, and third-party administrators to determine if they have met their obligations under this code. Each audit subject shall be audited at least once every five years. The audit subjects shall be selected and the audits conducted pursuant to subdivision (b). The results of audits of insurers shall be provided to the Insurance Commissioner, and the results of audits of self-insurers and third-party administrators shall be provided to the Director of Industrial Relations. Nothing in this section shall restrict the authority of the Director of Industrial Relations or the Insurance Commissioner to audit their licensees.

(b) The administrative director shall schedule and conduct audits as follows:

1. A profile audit review of every audit subject shall be conducted once every five years and on additional occasions indicated by target audit criteria. The administrative director shall annually establish a profile audit review performance standard that will identify the poorest performing audit subjects.

2. A full compliance audit shall be conducted of each profile audited subject failing to meet or exceed the profile audit review performance standard. The full compliance audit shall be a comprehensive and detailed evaluation of the audit subject’s performance. The administrative director shall annually establish a full compliance audit performance standard that will identify the audit subjects that are performing satisfactorily. Any full compliance audit subject that fails to meet or exceed the full compliance audit performance standard shall be audited again within two years.

3. A targeted profile audit review or a full compliance audit may be conducted at any time in accordance with target audit criteria adopted by the administrative director. The target audit criteria shall be based on information obtained from benefit notices, from information and assistance officers, and from other reliable sources providing factual information that indicates an insurer, self-insured employer, or third-party administrator is failing to meet its obligations under this division or Division 4 (commencing with Section 3200) or the regulations of the administrative director.
(c) If, as a result of a profile audit review or a full compliance audit, the administrative director determines that any compensation, interest, or penalty is due and unpaid to an employee or dependent, the administrative director shall issue and cause to be served upon the insurer, self-insured employer, or third-party administrator a notice of assessment detailing the amounts due and unpaid in each case, and shall order the amounts paid to the person entitled thereto. The notice of assessment shall be served personally or by registered mail in accordance with subdivision (c) of Section 11505 of the Government Code. A copy of the notice of assessment shall also be sent to the affected employee or dependent.

If the amounts are not paid within 30 days after service of the notice of assessment, the employer shall also be liable for reasonable attorney’s fees necessarily incurred by the employee or dependent to obtain amounts due. The administrative director shall advise each employee or dependent still owed compensation after this 30-day period of his or her rights with respect to the commencement of proceedings to collect the compensation owed. Amounts unpaid because the person entitled thereto cannot be located shall be paid to the Workers’ Compensation Administration Revolving Fund. The Director of Industrial Relations shall promulgate rules and regulations establishing standards and procedures for the payment of compensation from moneys deposited in the Workers’ Compensation Administration Revolving Fund whenever the person entitled thereto applies for compensation.

(d) A determination by the administrative director that an amount is or is not due to an employee or dependent shall not in any manner limit the jurisdiction or authority of the appeals board to determine the issue.

(e) Annually, commencing on April 1, 1991, the administrative director shall publish a report detailing the results of audits conducted pursuant to this section during the preceding calendar year. The report shall include the name of each insurer, self-insured employer, and third-party administrator audited during that period. For each insurer, self-insured employer, and third-party administrator audited, the report shall specify the total number of files audited, the number of violations found by type and amount of compensation, interest and penalties payable, and the amount collected for each violation. The administrative director shall also publish and make available to the public on request a list ranking all insurers, self-insured employers, and third-party administrators audited during the period according to their performance measured by the profile audit review and full compliance audit performance standards.

These reports shall not identify the particular claim file that resulted in a particular violation or penalty. Except as required by this subdivision or other provisions of law, the contents of individual claim files and
auditor’s working papers shall be confidential. Disclosure of claim information to the administrative director pursuant to an audit shall not waive the provisions of the Evidence Code relating to privilege.

(f) A profile audit review of the adjustment of claims against the Uninsured Employers Fund by the claims and collections unit of the Division of Workers’ Compensation shall be conducted at least every five years. The results of this profile audit review shall be included in the report required by subdivision (e).

SEC. 34. Section 129.5 of the Labor Code is amended to read:

129.5. (a) The administrative director may assess an administrative penalty against an insurer, self-insured employer, or third-party administrator for any of the following:

(1) Failure to comply with the notice of assessment issued pursuant to subdivision (c) of Section 129 within 15 days of receipt.

(2) Failure to pay when due the undisputed portion of an indemnity payment, the reasonable cost of medical treatment of an injured worker, or a charge or cost implementing an approved vocational rehabilitation plan.

(3) Failure to comply with any rule or regulation of the administrative director.

(b) The administrative director shall promulgate regulations establishing a schedule of violations and the amount of the administrative penalty to be imposed for each type of violation. The schedule shall provide for imposition of a penalty of up to one hundred dollars ($100) for each violation of the less serious type and for imposition of penalties in progressively higher amounts for the most serious types of violations to be set at up to five thousand dollars ($5,000) per violation. The administrative director is authorized to impose penalties pursuant to rules and regulations which give due consideration to the appropriateness of the penalty with respect to the following factors:

(1) The gravity of the violation.

(2) The good faith of the insurer, self-insured employer, or third-party administrator.

(3) The history of previous violations, if any.

(4) The frequency of the violations.

(5) Whether the audit subject has met or exceeded the profile audit review performance standard.

(6) Whether a full compliance audit subject has met or exceeded the full compliance audit performance standard.

(7) The size of the audit subject location.

(c) The administrative director shall assess penalties as follows:

(1) If, after a profile audit review, the administrative director determines that the profile audit subject met or exceeded the profile audit
review performance standard, no penalties shall be assessed under this section, but the audit subject shall be required to pay any compensation due and penalties due under subdivision (d) of Section 4650 as provided in subdivision (c) of Section 129.

(2) If, after a full compliance audit, the administrative director determines that the audit subject met or exceeded the full compliance audit performance standards, penalties for unpaid or late paid compensation, but no other penalties under this section, shall be assessed. The audit subject shall be required to pay any compensation due and penalties due under subdivision (d) of Section 4650 as provided in subdivision (c) of Section 129.

(3) If, after a full compliance audit, the administrative director determines that the audit subject failed to meet the full compliance audit performance standards, penalties shall be assessed as provided in a full compliance audit failure penalty schedule to be adopted by the administrative director. The full compliance audit failure penalty schedule shall adjust penalty levels relative to the size of the audit location to mitigate inequality between total penalties assessed against small and large audit subjects. The penalty amounts provided in the full compliance audit failure penalty schedule for the most serious type of violations shall not be limited by subdivision (b), but in no event shall the penalty for a single violation exceed forty thousand dollars ($40,000).

(d) The notice of penalty assessment shall be served personally or by registered mail in accordance with subdivision (c) of Section 11505 of the Government Code. The notice shall be in writing and shall describe the nature of the violation, including reference to the statutory provision or rule or regulation alleged to have been violated. The notice shall become final and the assessment shall be paid unless contested within 15 days of receipt by the insurer, self-insured employer, or third-party administrator.

(e) In addition to the penalty assessments permitted by subdivisions (a), (b), and (c), the administrative director may assess a civil penalty, not to exceed one hundred thousand dollars ($100,000), upon finding, after hearing, that an employer, insurer, or third-party administrator for an employer has knowingly committed or performed with sufficient frequency so as to indicate a general business practice any of the following:

(1) Induced employees to accept less than compensation due, or made it necessary for employees to resort to proceedings against the employer to secure compensation.

(2) Refused to comply with known and legally indisputable compensation obligations.
(3) Discharged or administered compensation obligations in a dishonest manner.

(4) Discharged or administered compensation obligations in a manner as to cause injury to the public or those dealing with the employer or insurer.

Any employer, insurer, or third-party administrator that fails to meet the full compliance audit performance standards in two consecutive full compliance audits shall be rebuttably presumed to have engaged in a general business practice of discharging and administering its compensation obligations in a manner causing injury to those dealing with it.

Upon a second or subsequent finding, the administrative director shall refer the matter to the Insurance Commissioner or the Director of Industrial Relations and request that a hearing be conducted to determine whether the certificate of authority, certificate of consent to self-insure, or certificate of consent to administer claims of self-insured employers, as the case may be, shall be revoked.

(f) An insurer, self-insured employer, or third-party administrator may file a written request for a conference with the administrative director within seven days after receipt of a notice of penalty assessment issued pursuant to subdivision (a) or (c). Within 15 days of the conference, the administrative director shall issue a notice of findings and serve it upon the contesting party by registered or certified mail. Any amount found due by the administrative director shall become due and payable 30 days after receipt of the notice of findings. The 30-day period shall be tolled during any appeal. A writ of mandate may be taken from the findings to the appropriate superior court upon the execution by the contesting party of a bond to the state in the principal sum that is double the amount found due and ordered by the administrative director, on the condition that the contesting party shall pay any judgment and costs rendered against it for the amount.

(g) An insurer, self-insured employer, or third-party administrator may file a written request for a hearing before the Workers' Compensation Appeals Board within seven days after receipt of a notice of penalty assessment issued pursuant to subdivision (e). Within 30 days of the hearing, the appeals board shall issue findings and orders and serve them upon the contesting party in the manner provided in its rules. Any amount found due by the appeals board shall become due and payable 45 days after receipt of the notice of findings. Judicial review of the findings and order shall be had in the manner provided by Article 2 (commencing with Section 5950) of Chapter 7 of Part 4 of Division 4. The 45-day period shall be tolled during appellate proceedings upon execution by the contesting party of a bond to the state in a principal sum that is double the amount found due and ordered by the appeals board.
on the condition that the contesting party shall pay the amount ultimately
determined to be due and any costs awarded by an appellate court.

(h) Nothing in this section shall create nor eliminate a civil cause of
action for the employee and his or her dependents.

(i) All moneys collected under this section shall be deposited in the
State Treasury and credited to the Workers’ Compensation
Administration Revolving Fund.

SEC. 35. Section 133 of the Labor Code is amended to read:
133. The Division of Workers’ Compensation, including the
administrative director, the court administrator, and the appeals board,
shall have power and jurisdiction to do all things necessary or convenient
in the exercise of any power or jurisdiction conferred upon it under this
code.

SEC. 36. Section 138 of the Labor Code is amended to read:
138. The administrative director and the court administrator may
each appoint a deputy to act during that time as he or she may be absent
from the state due to official business, vacation, or illness.

SEC. 37. Section 138.1 of the Labor Code is amended to read:
138.1. (a) The administrative director shall be appointed by the
Governor with the advice and consent of the Senate and shall hold office
at the pleasure of the Governor. He or she shall receive the salary
provided for by Chapter 6 (commencing with Section 11550) of Part 1
of Division 3 of Title 2 of the Government Code.

(b) The court administrator shall be appointed by the Governor with
the advice and consent of the Senate. The court administrator shall hold
office at the pleasure of the administrative director. The court
administrator shall receive the salary provided for by Chapter 6
(commencing with Section 11550) of Part 1 of Division 3 of Title 2 of
the Government Code.

SEC. 38. Section 138.2 of the Labor Code is amended to read:
138.2. (a) The headquarters of the Division of Workers’
Compensation shall be based at and operated from a centrally located
city.

The administrative director and the court administrator shall have an
office in that city with suitable rooms, necessary office furniture,
stationery, and supplies, and may rent quarters in other places for the
purpose of establishing branch or service offices, and for that purpose
may provide those offices with necessary furniture, stationery and
supplies.

(b) The administrative director shall provide suitable rooms, with
necessary office furniture, stationery and supplies, for the appeals board
at the centrally located city in which the board shall be based and from
which it shall operate, and may rent quarters in other places for the
purpose of establishing branch or service offices for the appeals board,
and for that purpose may provide those offices with necessary furniture, stationery, and supplies.

(c) All meetings held by the administrative director shall be open and public. Notice thereof shall be published in papers of general circulation not more than 30 days and not less than 10 days prior to each meeting in Sacramento, San Francisco, Fresno, Los Angeles and San Diego. Written notice of all meetings shall be given to all persons who request in writing directed to the administrative director that they be given notice.

SEC. 39. Section 138.4 of the Labor Code is amended to read:

138.4. (a) For the purpose of this section, “claims administrator” means a self-administered workers’ compensation insurer; or a self-administered self-insured employer; or a self-administered legally uninsured employer; or a self-administered joint powers authority; or a third-party claims administrator for an insurer, a self-insured employer, a legally uninsured employer, or a joint powers authority.

(b) With respect to injuries resulting in lost time beyond the employee’s work shift at the time of injury or medical treatment beyond first aid:

(1) If the claims administrator obtains knowledge that the employer has not provided a claim form or a notice of potential eligibility for benefits to the employee, it shall provide the form and notice to the employee within three working days of its knowledge that the form or notice was not provided.

(2) If the claims administrator cannot determine if the employer has provided a claim form and notice of potential eligibility for benefits to the employee, the claims administrator shall provide the form and notice to the employee within 30 days of the administrator’s date of knowledge of the claim.

(c) The administrative director shall prescribe reasonable rules and regulations for serving on the employee (or employee’s dependents, in the case of death), notices dealing with the payment, nonpayment, or delay in payment of temporary disability, permanent disability, and death benefits and the provision of vocational rehabilitation services, notices of any change in the amount or type of benefits being provided, the termination of benefits, the rejection of any liability for compensation, and an accounting of benefits paid.

SEC. 39.5. Section 139.05 of the Labor Code is repealed.

SEC. 40. Section 139.47 is added to the Labor Code, to read:

139.47. The Director of Industrial Relations shall establish and maintain a program to encourage, facilitate, and educate employers to provide early and sustained return to work after occupational injury or illness. The program shall do both of the following:
(a) Develop educational materials and guides, in easily understandable language in both print and electronic form, for employers, health care providers, employees, and labor unions. These materials shall address issues including, but not limited to, early return to work, assessment of functional abilities and limitations, development of appropriate work restrictions, job analysis, worksite modifications, assistive equipment and devices, and available resources.

(b) Conduct training for employee and employer organizations and health care providers concerning the accommodation of injured employees and the prevention of reinjury.

SEC. 41. Section 139.48 is added to the Labor Code, to read:

139.48. (a) The administrative director shall establish the Return-to-Work Program in order to promote the early and sustained return to work of the employee following a work-related injury or illness.

(b) Upon submission by employers of documentation in accordance with regulations adopted pursuant to subdivision (h), the administrative director shall pay the wage reimbursement, workplace modification expense reimbursement, and premium reimbursement allowed under this section.

(c) Any employer, except the state or an employer eligible to secure the payment of compensation pursuant to subdivision (c) of Section 3700, may apply for a reimbursement for wages paid to an employee who has returned to modified or alternative work, as defined in paragraphs (5) and (6) of subdivision (a) of Section 4644, with the employer during the period the employee is temporarily disabled from his or her employment in accordance with all of the following:

1. The reimbursement shall be allowed for up to 50 percent of wages paid to the employee.

2. The reimbursement shall be allowed for a period of no more than 90 days, or until the employee is released to the full duties of his or her usual occupation, or until the employee’s condition becomes permanent and stationary, whichever occurs first.

3. The modified or alternative work is compatible with the employee’s documented work restrictions imposed by the treating physician as a result of the work injury or illness.

4. The reimbursement shall be paid from the Workers’ Compensation Return-to-Work Fund, created in subdivision (i), as a reimbursement to the employer after submission of documentation of eligibility and wages paid.

(d) The administrative director shall reimburse an employer for expenses incurred to make workplace modifications to accommodate the employee’s return to modified or alternative work, as follows:
(1) The maximum reimbursement to an employer for expenses to accommodate each temporarily disabled injured worker is one thousand two hundred fifty dollars ($1,250).

(2) The maximum reimbursement to an employer for expenses to accommodate each permanently disabled worker who is a qualified injured worker is two thousand five hundred dollars ($2,500). If the employer received reimbursement under paragraph (1), the amount of the reimbursement under paragraph (1) and this paragraph shall not exceed two thousand five hundred dollars ($2,500).

(3) The modification expenses shall be incurred in order to allow a temporarily disabled worker to perform modified or alternative work within physician-imposed temporary work restrictions, or to allow a permanently disabled worker who is a qualified injured worker to return to sustained modified or alternative employment with the employer within physician-imposed permanent work restrictions.

(4) Allowable expenses may include physical modifications to the worksite, equipment, devices, furniture, tools, or other necessary costs for accommodation of the employee’s restrictions.

(e) (1) An insured employer may apply to the administrative director for reimbursement of workers’ compensation insurance premiums attributable to the sustained employment of a qualified injured worker following the period for premium rebate provided in subdivision (a) of Section 4638. The reimbursement shall be equal to the standard premium computed on the wages paid by the employer to the qualified injured worker during each 12-month period.

(2) An employer that employs 100 or fewer employees on the date of injury may be reimbursed for 100 percent of the workers’ compensation insurance premium paid for the employee for up to two years. An employer that employs more than 100 employees on the date of injury may be reimbursed for 50 percent of the workers’ compensation insurance premium paid for the employee for up to two years. The period subject to premium reimbursement shall begin on the first day after the end of the 12-month period for premium rebate provided in subdivision (a) of Section 4638 and shall continue for a maximum of two years.

(3) The premium reimbursement shall be paid to the employer annually after each consecutive period of 12 months, provided that the qualified injured worker continues modified or alternative employment with that employer in a regular position that pays at least 85 percent of the employee’s pre-injury wages and compensation.

(f) This section shall not create a preference in employment for injured employees over noninjured employees. It shall be unlawful for an employer to discriminatorily terminate, lay off, demote, or otherwise displace an employee in order to return an industrially injured employee
to employment for the purpose of obtaining the reimbursement set forth in subdivisions (c), (d), or (e).

(g) For purposes of this section, “employee” means a worker who has suffered a work-related injury or illness on or after July 1, 2004.

(h) The administrative director shall adopt regulations to carry out this section. Regulations allocating budget funds that are insufficient to implement the maximum wage reimbursement, workplace modification expense reimbursement, and premium reimbursement provided for in this section shall include a prioritization schema according to which employers with less than 100 employees shall be given preference in the allocation of those funds.

(i) The Workers’ Compensation Return-to-Work Fund is hereby created as a special fund in the State Treasury. The fund shall be administered by the administrative director. Moneys in the fund may be expended by the administrative director, upon appropriation by the Legislature, only for purposes of implementing this section. The unencumbered balance remaining in the fund as of January 1, 2009, shall revert to the General Fund.

(j) This section shall be operative on July 1, 2004.

(k) This section shall not be implemented unless and until funds are appropriated by the Legislature for this purpose in the annual Budget Act or other statute commencing with the 2004–05 fiscal year.

(l) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.

SEC. 41.5. Section 139.49 is added to the Labor Code, to read:

139.49. (a) The administrative director shall contract with an independent research organization to conduct a study and issue a report on the Return-to-Work Program established in Section 139.48. The study shall examine at least two years’ operation of the program and shall address all of the following:

(1) The effectiveness of the wage reimbursement, workplace modification expense reimbursement, and premium reimbursement components of the program.

(2) The rate of participation by insured and self-insured employers, including information on the size and industry of employers.

(3) Comparison of rates of utilization of modified and alternative work before and after establishment of the program and evaluation of whether there is an increase in sustained return to work.

(4) The impact of the program on injured employees.

(5) The cost-effectiveness of the program.

(6) Identification of potential future funding mechanisms for the program.
(b) On or before January 1, 2008, the administrative director shall make the report available to the public and the Legislature.

(c) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.

SEC. 42. Section 3201.7 is added to the Labor Code, to read:

3201.7. (a) Except as provided in subdivisions (b) and (c), the Department of Industrial Relations and the courts of this state shall recognize as valid and binding any provision in a collective bargaining agreement between a private employer or groups of employers engaged in the aerospace or timber industries and a union that is the recognized or certified exclusive bargaining representative that establishes any of the following:

(1) An alternative dispute resolution system governing disputes between employees and employers or their insurers that supplements or replaces all or part of those dispute resolution processes contained in this division, including, but not limited to, mediation and arbitration. Any system of arbitration shall provide that the decision of the arbiter or board of arbitration is subject to review by the appeals board in the same manner as provided for reconsideration of a final order, decision, or award made and filled by a workers’ compensation judge pursuant to the procedures set forth in Article 1 (commencing with Section 5900) of Chapter 7 of Part 4 of Division 4, and the court of appeals pursuant to the procedures set forth in Article 2 (commencing with Section 5950) of Chapter 7 of Part 4 of Division 4, governing orders, decisions, or awards of the appeals board. The findings of fact, award, order, or decision of the arbitrator shall have the same force and effect as an award, order, or decision of a workers’ compensation administrative law judge. Any provision for arbitration established pursuant to this section shall not be subject to Sections 5270, 5270.5, 5271, 5272, 5273, 5275, and 5277.

(2) The use of an agreed list of providers of medical treatment that may be the exclusive source of all medical treatment provided under this division.

(3) The use of an agreed, limited list of qualified medical evaluators and agreed medical evaluators that may be the exclusive source of qualified medical evaluators and agreed medical evaluators under this division.

(4) Joint labor management safety committees.

(5) A light-duty, modified job or return-to-work program.

(6) A vocational rehabilitation or retraining program utilizing an agreed list of providers of rehabilitation services that may be the exclusive source of providers of rehabilitation services under this division.
(b) Nothing in this section shall allow a collective bargaining agreement that diminishes the entitlement of an employee to compensation payments for total or partial disability, temporary disability, vocational rehabilitation, or medical treatment fully paid by the employer as otherwise provided in this division; nor shall any agreement authorized by this section deny to any employee the right to representation by counsel at all stages of the alternative dispute resolution process. The portion of any agreement that violates this subdivision shall be declared null and void.

(c) Subdivision (a) shall apply only to the following:

(1) An employer developing or projecting an annual workers’ compensation insurance premium, in California, of two hundred fifty thousand dollars ($250,000) or more, or any employer that paid an annual workers’ compensation insurance premium, in California, of two hundred fifty thousand dollars ($250,000), in at least one of the previous three years.

(2) Groups of employers engaged in a workers’ compensation safety group complying with Sections 11656.6 and 11656.7 of the Insurance Code, and established pursuant to a joint labor management safety committee or committees, which develops or projects annual workers’ compensation insurance premiums of two million dollars ($2,000,000) or more.

(3) Employer or groups of employers that are self-insured in compliance with Section 3700 that would have projected annual workers’ compensation costs that meet the requirements of paragraph (1) in the case of employers, or paragraph (2) in the case of groups of employers.

(d) Employers and labor representatives who meet the eligibility requirements of this section shall be issued a letter by the administrative director advising each employer and labor representative that, based upon the review of all documents and materials submitted as required by the administrative director, each has met the eligibility requirements of this section.

(e) The premium rate for a policy of insurance issued pursuant to this section shall not be subject to the requirements of Section 11732 or 11732.4 of the Insurance Code.

(f) No employer may establish or continue a program established under this section until it has provided the administrative director with all of the following:

(1) Upon its original application and whenever it is renegotiated thereafter, a copy of the collective bargaining agreement and the approximate number of employees who will be covered thereby.

(2) Upon its original application and annually thereafter, a valid and active license where that license is required by law as a condition of
doing business in the state within the industries set forth in subdivision (a).

(3) Upon its original application and annually thereafter, a statement signed under penalty of perjury, that no action has been taken by any administrative agency or court of the United States to invalidate the collective bargaining agreement.

(4) The name, address, and telephone number of the contact person of the employer.

(5) Upon its original application, a plan agreed to between an employer and any affected union prior to the commencement of collective bargaining, that establishes a framework for the implementation of the system to be developed pursuant to subdivision (a).

(6) Any other information that the administrative director deems necessary to further the purposes of this section.

(g) No collective bargaining representative may establish or continue to participate in a program established under this section unless all of the following requirements are met:

(1) Upon its original application and annually thereafter, it has provided to the administrative director a copy of its most recent LM-2 or LM-3 filing with the United States Department of Labor, along with a statement, signed under penalty of perjury, that the document is a true and correct copy.

(2) It has provided to the administrative director the name, address, and telephone number of the contact person or persons of the collective bargaining representative or representatives.

(h) Commencing July 1, 2004, and annually thereafter, the Division of Workers’ Compensation shall report to the Director of Industrial Relations the number of collective bargaining agreements received and the number of employees covered by these agreements.

(i) By June 30, 2004, and annually thereafter, the Administrative Director of the Division of Workers’ Compensation shall prepare and notify members of the Legislature that a report authorized by this section is available upon request. The report based upon aggregate data shall include the following:

(1) Person hours and payroll covered by agreements filed.

(2) The number of claims filed.

(3) The average cost per claim shall be reported by cost components whenever practicable.

(4) The number of litigated claims, including the number of claims submitted to mediation, the appeals board, or the court of appeals.

(5) The number of contested claims resolved prior to arbitration.

(6) The projected incurred costs and actual costs of claims.

(7) Safety history.
(8) The number of workers participating in vocational rehabilitation.
(9) The number of workers participating in light-duty programs.
(10) Overall worker satisfaction.

The division shall have the authority to require those employers and groups of employers listed in subdivision (c) to provide the data listed above.

(j) The data obtained by the administrative director pursuant to this section shall be confidential and not subject to public disclosure under any law of this state. However, the Division of Workers’ Compensation shall create derivative works pursuant to subdivisions (h) and (i) based on the collective bargaining agreements and data. Those derivative works shall not be confidential, but shall be public. On a monthly basis the administrative director shall make available an updated list of employers and unions entering into collective bargaining agreements containing provisions authorized by this section.

SEC. 42.5. Section 3201.9 is added to the Labor Code, to read:

3201.9. (a) On or before June 30, 2004, and biannually thereafter, the report required in subdivision (i) of Section 3201.5 and subdivision (i) of Section 3201.7 shall include updated loss experience for all employers and groups of employers participating in a program established under those sections. The report shall include updated data on each item set forth in subdivision (i) of Section 3201.5 and subdivision (i) of Section 3201.7 for the previous year for injuries in 2003 and beyond. Updates for each program shall be done for the original program year and for subsequent years. The insurers, the Department of Insurance, and the rating organization designated by the Insurance Commissioner pursuant to Article 3 (commencing with Section 11750) of Chapter 3 of Part 3 of Division 2 of the Insurance Code, shall provide the administrative director with any information that the administrative director determines is reasonably necessary to conduct the study.

(b) Commencing on and after June 30, 2004, the Insurance Commissioner, or the commissioner’s designee, shall prepare for inclusion in the report required in subdivision (i) of Section 3201.5 and subdivision (i) of Section 3201.7 a review of both of the following:

(1) The adequacy of rates charged for these programs, including the impact of scheduled credits and debits.

(2) The comparative results for these programs with other programs not subject to Section 3201.5 or Section 3201.7.

(c) Upon completion of the report, the administrative director shall report the findings to the Legislature, the Department of Insurance, the designated rating organization, and the programs and insurers participating in the study.
(d) The data obtained by the administrative director pursuant to this section shall be confidential and not subject to public disclosure under any law of this state.

SEC. 43. Section 3501 of the Labor Code is amended to read:
3501. (a) A child under the age of 18 years, or a child of any age found by any trier of fact, whether contractual, administrative, regulatory, or judicial, to be physically or mentally incapacitated from earning, shall be conclusively presumed to be wholly dependent for support upon a deceased employee-parent with whom that child is living at the time of injury resulting in death of the parent or for whose maintenance the parent was legally liable at the time of injury resulting in death of the parent, there being no surviving totally dependent parent.

(b) A spouse to whom a deceased employee is married at the time of death shall be conclusively presumed to be wholly dependent for support upon the deceased employee if the surviving spouse earned thirty thousand dollars ($30,000) or less in the twelve months immediately preceding the death.

(c) In the event that no person qualifies as a total or partial dependent of the deceased employee, then the surviving parent or parents of the deceased employee shall be conclusively presumed to be wholly dependent for support upon the deceased employee.

SEC. 44. Section 3550 of the Labor Code is amended to read:
3550. (a) Every employer subject to the compensation provisions of this division shall post and keep posted in a conspicuous location frequented by employees, and where the notice may be easily read by employees during the hours of the workday, a notice that states the name of the current compensation insurance carrier of the employer, or when such is the fact, that the employer is self-insured, and who is responsible for claims adjustment.

(b) Failure to keep any notice required by this section conspicuously posted shall constitute a misdemeanor, and shall be prima facie evidence of noninsurance.

(c) This section shall not apply with respect to the employment of employees as defined in subdivision (d) of Section 3351.

(d) The form and content of the notice required by this section shall be prescribed by the administrative director, after consultation with the Commission on Health and Safety and Workers’ Compensation, and shall advise employees that all injuries should be reported to their employer. The notice shall be easily understandable. It shall be posted in both English and Spanish where there are Spanish-speaking employees. The notice shall include the following information:

(1) How to get emergency medical treatment, if needed.

(2) The kinds of events, injuries, and illnesses covered by workers’ compensation.
(3) The injured employee’s right to receive medical care.
(4) The rights of the employee to select and change the treating physician pursuant to the provisions of Section 4600.
(5) The rights of the employee to receive temporary disability indemnity, permanent disability indemnity, vocational rehabilitation services, and death benefits, as appropriate.
(6) To whom injuries should be reported.
(7) The existence of time limits for the employer to be notified of an occupational injury.
(8) The protections against discrimination provided pursuant to Section 132a.
(9) The location and telephone number of the nearest information and assistance officer.
(e) Failure of an employer to provide the notice required by this section shall automatically permit the employee to be treated by his or her personal physician with respect to an injury occurring during that failure.
(f) The form and content of the notice required to be posted by this section shall be made available to self-insured employers and insurers by the administrative director. Insurers shall provide this notice to each of their policyholders, with advice concerning the requirements of this section and the penalties for a failure to post this notice.

SEC. 45. Section 3551 of the Labor Code is amended to read:

3551. (a) Every employer subject to the compensation provisions of this code, except employers of employees defined in subdivision (d) of Section 3351, shall give every new employee, either at the time the employee is hired or by the end of the first pay period, written notice of the information contained in Section 3550. The content of the notice required by this section shall be prescribed by the administrative director after consultation with the Commission on Health and Safety and Workers’ Compensation.

(b) The notice required by this section shall be easily understandable and available in both English and Spanish. In addition to the information contained in Section 3550, the content of the notice required by this section shall include:
(1) Generally, how to obtain appropriate medical care for a job injury.
(2) The role and function of the primary treating physician.
(3) A form that the employee may use as an optional method for notifying the employer of the name of the employee’s “personal physician,” as defined by Section 4600, or “personal chiropractor,” as defined by Section 4601.

(c) The content of the notice required by this section shall be made available to employers and insurers by the administrative director. Insurers shall provide this notice to each of their policyholders, with
advice concerning the requirements of this section and the penalties for a failure to provide this notice to all employees.

SEC. 46. Section 3552 of the Labor Code is repealed.

SEC. 47. Section 3722 of the Labor Code is amended to read:

3722. (a) At the time the stop order is issued and served pursuant to Section 3710.1, the director shall also issue and serve a penalty assessment order requiring the uninsured employer to pay to the director, for deposit in the State Treasury to the credit of the Uninsured Employers Fund, the sum of one thousand dollars ($1,000) per employee employed at the time the order is issued and served, as an additional penalty for being uninsured at that time.

(b) At any time that the director determines that an employer has been uninsured for a period in excess of one week during the calendar year preceding the determination, the director may issue and serve a penalty assessment order requiring the uninsured employer to pay to the director, for deposit in the State Treasury to the credit of the Uninsured Employers Fund, the greater of (1) twice the amount the employer would have paid in workers’ compensation premiums during the period the employer was uninsured, determined according to subdivision (c), or (2) the sum of one thousand dollars ($1,000) per employee employed during the period the employer was uninsured. A penalty assessment issued and served by the director pursuant to this subdivision shall be in lieu of, and not in addition to, any other penalty issued and served by the director pursuant to subdivision (a).

(c) If the employer is currently insured, or becomes insured during the period during which the penalty under subdivision (b) is being determined, the amount an employer would have paid in workers’ compensation premiums shall be calculated by prorating the current premium for the number of weeks the employer was uninsured. If the employer is uninsured at the time the penalty under subdivision (b) is being determined, the amount an employer would have paid in workers’ compensation premiums shall be calculated by applying the weekly premium per employee calculated according to subdivision (d) of Section 11734 of the Insurance Code to the number of weeks the employer was uninsured. Each employee of the uninsured employer shall be assumed to be assigned to the governing classification for that employer as determined by the director after consultation with the Insurance Commissioner. If the employer contends that the assignment of the governing classification is incorrect, or that any employee should be assigned to a different classification, the employer has the burden to prove that the different classification should be utilized.

(d) If upon the filing of a claim for compensation under this division the Workers’ Compensation Appeals Board finds that any employer has not secured the payment of compensation as required by this division
and finds the claim either noncompensable or compensable, the appeals board shall mail a copy of their findings to the uninsured employer and the director, together with a direction to the uninsured employer to file a verified statement pursuant to subdivision (e).

After the time for any appeal has expired and the adjudication of the claim has become final, the uninsured employer shall be assessed and pay as a penalty either of the following:

1. In noncompensable cases, two thousand dollars ($2,000) per each employee employed at the time of the claimed injury.

2. In compensable cases, ten thousand dollars ($10,000) per each employee employed on the date of the injury.

(e) In order to establish the number of employees the uninsured employer had on the date of the claimed injury in noncompensable cases and on the date of injury in compensable cases, the employer shall submit to the director within 10 days after service of findings, awards, and orders of the Workers’ Compensation Appeals Board a verified statement of the number of employees in his or her employ on the date of injury. If the employer fails to submit to the director this verified statement or if the director disputes the accuracy of the number of employees reported by the employer, the director shall use any information regarding the number of employees as the director may have or otherwise obtains.

(f) Except for penalties assessed under subdivision (b), the maximum amount of penalties which may be assessed pursuant to this section is one hundred thousand dollars ($100,000). Payment shall be transmitted to the director for deposit in the State Treasury to the credit of the Uninsured Employers Fund.

(g) (1) The Workers’ Compensation Appeals Board may provide for a summary hearing on the sole issue of compensation coverage to effect the provisions of this section.

(2) In the event a claim is settled by the director pursuant to subdivision (e) of Section 3715 by means of a compromise and release or stipulations with request for award, the appeals board may also provide for a summary hearing on the issue of compensability.

SEC. 48. Section 3762 of the Labor Code is amended to read:

3762. (a) Except as provided in subdivisions (b) and (c), the insurer shall discuss all elements of the claim file that affect the employer’s premium with the employer, and shall supply copies of the documents that affect the premium at the employer’s expense during reasonable business hours.

(b) The right provided by this section shall not extend to any document that the insurer is prohibited from disclosing to the employer under the attorney-client privilege, any other applicable privilege, or
(c) An insurer, third-party administrator retained by a self-insured employer pursuant to Section 3702.1 to administer the employer’s workers’ compensation claims, and those employees and agents specified by a self-insured employer to administer the employer’s workers’ compensation claims, are prohibited from disclosing or causing to be disclosed to an employer, any medical information, as defined in subdivision (b) of Section 56.05 of the Civil Code, about an employee who has filed a workers’ compensation claim, except as follows:

(1) Medical information limited to the diagnosis of the mental or physical condition for which workers’ compensation is claimed and the treatment provided for this condition.

(2) Medical information regarding the injury for which workers’ compensation is claimed that is necessary for the employer to have in order for the employer to modify the employee’s work duties.

SEC. 49. Section 3820 of the Labor Code is amended to read:

3820. (a) In enacting this section, the Legislature declares that there exists a compelling interest in eliminating fraud in the workers’ compensation system. The Legislature recognizes that the conduct prohibited by this section is, for the most part, already subject to criminal penalties pursuant to other provisions of law. However, the Legislature finds and declares that the addition of civil money penalties will provide necessary enforcement flexibility. The Legislature, in exercising its plenary authority related to workers’ compensation, declares that these sections are both necessary and carefully tailored to combat the fraud and abuse that is rampant in the workers’ compensation system.

(b) It is unlawful to do any of the following:

(1) Willfully misrepresent any fact in order to obtain workers’ compensation insurance at less than the proper rate.

(2) Present or cause to be presented any knowingly false or fraudulent written or oral material statement in support of, or in opposition to, any claim for compensation for the purpose of obtaining or denying any compensation, as defined in Section 3207.

(3) Knowingly solicit, receive, offer, pay, or accept any rebate, refund, commission, preference, patronage, dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for soliciting or referring clients or patients to obtain services or benefits pursuant to Division 4 (commencing with Section 3200) unless the payment or receipt of consideration for services other than the referral of clients or patients is lawful pursuant to Section 650 of the Business and Professions Code or expressly permitted by the Rules of Professional Conduct of the State Bar.
(4) Knowingly operate or participate in a service that, for profit, refers or recommends clients or patients to obtain medical or medical-legal services or benefits pursuant to Division 4 (commencing with Section 3200).

(5) Knowingly assist, abet, solicit, or conspire with any person who engages in an unlawful act under this section.

(c) For the purposes of this section, "statement" includes, but is not limited to, any notice, proof of injury, bill for services, payment for services, hospital or doctor records, X-ray, test results, medical-legal expenses as defined in Section 4620, or other evidence of loss, expense, or payment.

(d) Any person who violates any provision of this section shall be subject, in addition to any other penalties that may be prescribed by law, to a civil penalty of not less than four thousand dollars ($4,000) nor more than ten thousand dollars ($10,000), plus an assessment of not more than three times the amount of the medical treatment expenses paid pursuant to Article 2 (commencing with Section 4600) and medical-legal expenses paid pursuant to Article 2.5 (commencing with Section 4620) for each claim for compensation submitted in violation of this section.

(e) Any person who violates subdivision (b) and who has a prior felony conviction of an offense set forth in Section 1871.1 or 1871.4 of the Insurance Code, or in Section 549 of the Penal Code, shall be subject, in addition to the penalties set forth in subdivision (d), to a civil penalty of four thousand dollars ($4,000) for each item or service with respect to which a violation of subdivision (b) occurred.

(f) The penalties provided for in subdivisions (d) and (e) shall be assessed and recovered in a civil action brought in the name of the people of the State of California by any district attorney.

(g) In assessing the amount of the civil penalty the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the following: the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant’s misconduct, and the defendant’s assets, liabilities, and net worth.

(h) All penalties collected pursuant to this section shall be paid to the Workers’ Compensation Fraud Account in the Insurance Fund pursuant to Section 1872.83 of the Insurance Code. All costs incurred by district attorneys in carrying out this article shall be funded from the Workers’ Compensation Fraud Account. It is the intent of the Legislature that the program instituted by this article be supported entirely from funds produced by moneys deposited into the Workers’ Compensation Fraud Account from the imposition of civil money penalties for workers’ compensation fraud collected pursuant to this section. All moneys
claimed by district attorneys as costs of carrying out this article shall be paid pursuant to a determination by the Fraud Assessment Commission established by Section 1872.83 of the Insurance Code and on appropriation by the Legislature.

SEC. 50. Section 3822 is added to the Labor Code, to read:

3822. The administrative director shall, on an annual basis, provide to every employer, claims adjuster, third party administrator, physician, and attorney who participates in the workers’ compensation system, a notice that warns the recipient against committing workers’ compensation fraud. The notice shall specify the penalties that are applied for committing workers’ compensation fraud. The Fraud Assessment Commission, established by Section 1872.83 of the Insurance Code, shall provide the administrative director with all funds necessary to carry out this section.

SEC. 51. Section 4061 of the Labor Code is amended to read:

4061. (a) Together with the last payment of temporary disability indemnity, the employer shall, in a form prescribed by the administrative director pursuant to Section 138.4, provide the employee one of the following:

(1) Notice either that no permanent disability indemnity will be paid because the employer alleges the employee has no permanent impairment or limitations resulting from the injury or notice of the amount of permanent disability indemnity determined by the employer to be payable. The notice shall include information concerning how the employee may obtain a formal medical evaluation pursuant to subdivision (c) if he or she disagrees with the position taken by the employer. The notice shall be accompanied by the form prescribed by the Industrial Medical Council for requesting assignment of a panel of qualified medical evaluators, unless the employee is represented by an attorney. If the employer determines permanent disability indemnity is payable, the employer shall advise the employee of the amount determined payable and the basis on which the determination was made and whether there is need for continuing medical care.

(2) Notice that permanent disability indemnity may be or is payable, but that the amount cannot be determined because the employee’s medical condition is not yet permanent and stationary. The notice shall advise the employee that his or her medical condition will be monitored until it is permanent and stationary, at which time the necessary evaluation will be performed to determine the existence and extent of permanent impairment and limitations for the purpose of rating permanent disability and to determine the need for continuing medical care, or at which time the employer will advise the employee of the amount of permanent disability indemnity the employer has determined to be payable. If an employee is provided notice pursuant to this
paragraph and the employer later takes the position that the employee has no permanent impairment or limitations resulting from the injury, or later determines permanent disability indemnity is payable, the employer shall in either event, within 14 days of the determination to take either position, provide the employee with the notice specified in paragraph (1).

(b) Each notice required by subdivision (a) shall describe the administrative procedures available to the injured employee and advise the employee of his or her right to consult an information and assistance officer or an attorney. It shall contain the following language:

“Should you decide to be represented by an attorney, you may or may not receive a larger award, but, unless you are determined to be ineligible for an award, the attorney’s fee will be deducted from any award you might receive for disability benefits. The decision to be represented by an attorney is yours to make, but it is voluntary and may not be necessary for you to receive your benefits.”

(c) If the parties do not agree to a permanent disability rating based on the treating physician’s evaluation or the assessment of need for continuing medical care, and the employee is represented by an attorney, the employer shall seek agreement with the employee on a physician to prepare a comprehensive medical evaluation of the employee’s permanent impairment and limitations and any need for continuing medical care resulting from the injury. If no agreement is reached within 10 days, or any additional time not to exceed 20 days agreed to by the parties, the parties may not later select an agreed medical evaluator. Evaluations of an employee’s permanent impairment and limitations obtained prior to the period to reach agreement shall not be admissible in any proceeding before the appeals board. After the period to reach agreement has expired, either party may select a qualified medical evaluator to conduct the comprehensive medical evaluation. Neither party may obtain more than one comprehensive medical-legal report, provided, however, that any party may obtain additional reports at their own expense.

(d) If the parties do not agree to a permanent disability rating based on the treating physician’s evaluation, and if the employee is not represented by an attorney, the employer shall not seek agreement with the employee on a physician to prepare an additional medical evaluation. The employer shall immediately provide the employee with a form prescribed by the medical director with which to request assignment of a panel of three qualified medical evaluators. The employee shall select a physician from the panel to prepare a medical evaluation of the employee’s permanent impairment and limitations and any need for continuing medical care resulting from the injury.
For injuries occurring on or after January 1, 2003, except as provided in subdivision (b) of Section 4064, the report of the qualified medical evaluator and the reports of the treating physician or physicians shall be the only admissible reports and shall be the only reports obtained by the employee or the employer on the issues subject to this section.

(e) If an employee obtains a qualified medical evaluator from a panel pursuant to subdivision (d) or pursuant to subdivision (b) of Section 4062, and thereafter becomes represented by an attorney and obtains an additional qualified medical evaluator, the employer shall have a corresponding right to secure an additional qualified medical evaluator.

(f) The represented employee shall be responsible for making an appointment with an agreed medical evaluator.

(g) The unrepresented employee shall be responsible for making an appointment with a qualified medical evaluator selected from a panel of three qualified medical evaluators. The evaluator shall give the employee, at the appointment, a brief opportunity to ask questions concerning the evaluation process and the evaluator’s background. The unrepresented employee shall then participate in the evaluation as requested by the evaluator unless the employee has good cause to discontinue the evaluation. For purposes of this subdivision, “good cause” shall include evidence that the evaluator is biased against the employee because of his or her race, sex, national origin, religion, or sexual preference or evidence that the evaluator has requested the employee to submit to an unnecessary medical examination or procedure. If the unrepresented employee declines to proceed with the evaluation, he or she shall have the right to a new panel of three qualified medical evaluators from which to select one to prepare a comprehensive medical evaluation. If the appeals board subsequently determines that the employee did not have good cause to not proceed with the evaluation, the cost of the evaluation shall be deducted from any award the employee obtains.

(h) Upon selection or assignment pursuant to subdivision (c) or (d), the medical evaluator shall perform a comprehensive medical evaluation according to the procedures promulgated by the Industrial Medical Council under paragraphs (2) and (3) of subdivision (j) of Section 139.2 and summarize the medical findings on a form prescribed by the Industrial Medical Council. The comprehensive medical evaluation shall address all contested medical issues arising from all injuries reported on one or more claim forms prior to the date of the employee’s initial appointment with the medical evaluator. If, after a comprehensive medical evaluation is prepared, the employer or the employee subsequently objects to any new medical issue, the parties, to the extent possible, shall utilize the same medical evaluator who prepared the previous evaluation to resolve the medical dispute.
(i) Except as provided in Section 139.3, the medical evaluator may obtain consultations from other physicians who have treated the employee for the injury whose expertise is necessary to provide a complete and accurate evaluation.

(j) The qualified medical evaluator who has evaluated an unrepresented employee shall serve the comprehensive medical evaluation and the summary form on the employee, employer, and the administrative director. The unrepresented employee or the employer may submit the treating physician’s evaluation for the calculation of a permanent disability rating. Within 20 days of receipt of the comprehensive medical evaluation, the administrative director shall calculate the permanent disability rating according to Section 4660 and serve the rating on the employee and employer.

(k) Any comprehensive medical evaluation concerning an unrepresented employee which indicates that part or all of an employee’s permanent impairment or limitations may be subject to apportionment pursuant to Sections 4663 or 4750 shall first be submitted by the administrative director to a workers’ compensation judge who may refer the report back to the qualified medical evaluator for correction or clarification if the judge determines the proposed apportionment is inconsistent with the law.

(l) Within 30 days of receipt of the rating, if the employee is unrepresented, the employee or employer may request that the administrative director reconsider the recommended rating or obtain additional information from the treating physician or medical evaluator to address issues not addressed or not completely addressed in the original comprehensive medical evaluation or not prepared in accord with the procedures of the Industrial Medical Council promulgated under paragraph (2) or (3) of subdivision (j) of Section 139.2. This request shall be in writing, shall specify the reasons the rating should be reconsidered, and shall be served on the other party. If the administrative director finds the comprehensive medical evaluation is not complete or not in compliance with the required procedures, the administrative director shall return the report to the treating physician or qualified medical evaluator for appropriate action as the administrative director instructs. Upon receipt of the treating physician’s or qualified medical evaluator’s final comprehensive medical evaluation and summary form, the administrative director shall recalculate the permanent disability rating according to Section 4660 and serve the rating, the comprehensive medical evaluation, and the summary form on the employee and employer.

(m) If a comprehensive medical evaluation from the treating physician or an agreed medical evaluator or a qualified medical evaluator selected from a three-member panel resolves any issue so as
to require an employer to provide compensation, the employer shall commence the payment of compensation or promptly commence proceedings before the appeals board to resolve the dispute. If the employee and employer agree to a stipulated findings and award as provided under Section 5702 or to compromise and release the claim under Chapter 2 (commencing with Section 5000) of Part 3, or if the employee wishes to commute the award under Chapter 3 (commencing with Section 5100) of Part 3, the appeals board shall first determine whether the agreement or commutation is in the best interests of the employee and whether the proper procedures have been followed in determining the permanent disability rating. The administrative director shall promulgate a form to notify the employee, at the time of service of any rating under this section, of the options specified in this subdivision, the potential advantages and disadvantages of each option, and the procedure for disputing the rating.

(n) No issue relating to the existence or extent of permanent impairment and limitations or the need for continuing medical care resulting from the injury may be the subject of a declaration of readiness to proceed unless there has first been a medical evaluation by a treating physician or an agreed or qualified medical evaluator. With the exception of an evaluation or evaluations prepared by the treating physician or physicians, no evaluation of permanent impairment and limitations or need for continuing medical care resulting from the injury shall be obtained prior to service of the comprehensive medical evaluation on the employee and employer if the employee is unrepresented, or prior to the attempt to select an agreed medical evaluator if the employee is represented. Evaluations obtained in violation of this prohibition shall not be admissible in any proceeding before the appeals board. However, the testimony, records, and reports offered by the treating physician or physicians who treated the employee for the injury and comprehensive medical evaluations prepared by a qualified medical evaluator selected by an unrepresented employee from a three-member panel shall be admissible.

SEC. 52. Section 4062 of the Labor Code is amended to read:

4062. (a) If either the employee or employer objects to a medical determination made by the treating physician concerning the permanent and stationary status of the employee’s medical condition, the employee’s preclusion or likely preclusion to engage in his or her usual occupation, the extent and scope of medical treatment, the existence of new and further disability, or any other medical issues not covered by Section 4060 or 4061, the objecting party shall notify the other party in writing of the objection within 20 days of receipt of the report if the employee is represented by an attorney or within 30 days of receipt of the report if the employee is not represented by an attorney. These time
limits may be extended for good cause or by mutual agreement. If the employee is represented by an attorney, the parties shall seek agreement with the other party on a physician, who need not be a qualified medical evaluator, to prepare a report resolving the disputed issue. If no agreement is reached within 10 days, or any additional time not to exceed 20 days agreed upon by the parties, the parties may not later select an agreed medical evaluator. Evaluations obtained prior to the period to reach agreement shall not be admissible in any proceeding before the appeals board. After the period to reach agreement has expired, the objecting party may select a qualified medical evaluator to conduct the comprehensive medical evaluation. Neither party may obtain more than one comprehensive medical-legal report, provided, however, that any party may obtain additional reports at their own expense. The nonobjecting party may continue to rely on the treating physician’s report or may select a qualified medical evaluator to conduct an additional evaluation.

(b) If the employee is not represented by an attorney, the employer shall not seek agreement with the employee on a physician to prepare the comprehensive medical evaluation. The employer shall immediately provide the employee with a form prescribed by the medical director with which to request assignment of a panel of three qualified medical evaluators. The employee shall select a physician from the panel to prepare a comprehensive medical evaluation. For injuries occurring on or after January 1, 2003, except as provided in subdivision (b) of Section 4064, the evaluation of the qualified medical evaluator selected from a panel of three and the reports of the treating physician or physicians shall be the only admissible reports and shall be the only reports obtained by the employee or employer on issues subject to this section in a case involving an unrepresented employee.

(c) Upon completing a determination of the disputed medical issue, the physician selected under subdivision (a) or (b) to perform the medical evaluation shall summarize the medical findings on a form prescribed by the Industrial Medical Council and shall serve the formal medical evaluation and the summary form on the employee, employer, and administrative director. The medical evaluation shall address all contested medical issues arising from all injuries reported on one or more claim forms prior to the date of the employee’s initial appointment with the medical evaluator. If, after a medical evaluation is prepared, the employer or the employee subsequently objects to any new medical issue, the parties, to the extent possible, shall utilize the same medical evaluator who prepared the previous evaluation to resolve the medical dispute.

(d) No disputed medical issue specified in subdivision (a) may be the subject of a declaration of readiness to proceed unless there has first been
an evaluation by the treating physician or an agreed or qualified medical evaluator.

(e) With the exception of a report or reports prepared by the treating physician or physicians, no report determining disputed medical issues set forth in subdivision (a) shall be obtained prior to the expiration of the period to reach agreement on the selection of an agreed medical evaluator under subdivision (a). Reports obtained in violation of this prohibition shall not be admissible in any proceeding before the appeals board. However, the testimony, records, and reports offered by the treating physician or physicians who treated the employee for the injury shall be admissible.

SEC. 53. Section 4062.9 of the Labor Code is amended to read:

4062.9. (a) For injuries occurring on or after January 1, 2003, in cases where an additional comprehensive medical evaluation is obtained under Section 4061 or 4062, if the employee has been treated by his or her personal physician, or by his or her personal chiropractor, as defined in Section 4601, who was predesignated prior to the date of injury as provided under Section 4600, the findings of the personal physician or personal chiropractor are presumed to be correct. This presumption is rebuttable and may be controverted by a preponderance of medical opinion indicating a different level of disability. However, the presumption shall not apply where both parties select qualified medical examiners.

(b) The administrative director, in consultation with the Industrial Medical Council, shall develop, not later than January 1, 2004, and periodically revise as necessary thereafter, educational materials to be used to provide treating physicians and chiropractors with information and training in basic concepts of workers’ compensation, the role of the treating physician, the conduct of permanent and stationary evaluations, and report writing.

SEC. 54. Section 4064 of the Labor Code is amended to read:

4064. (a) The employer shall be liable for the cost of each reasonable and necessary comprehensive medical-legal evaluation obtained by the employee pursuant to Sections 4060, 4061, and 4062. Each comprehensive medical-legal evaluation shall address all contested medical issues arising from all injuries reported on one or more claim forms.

(b) For injuries occurring on or after January 1, 2003, if an unrepresented employee obtains an attorney after the evaluation pursuant to subdivision (d) of Section 4061 or subdivision (b) of Section 4062 has been completed, the employee shall be entitled to the same reports at employer expense as an employee who has been represented from the time the dispute arose and those reports shall be admissible in any proceeding before the appeals board.
(c) Subject to Section 4906, if an employer files an application for adjudication and the employee is unrepresented at the time the application is filed, the employer shall be liable for any attorney’s fees incurred by the employee in connection with the application for adjudication.

(d) The employer shall not be liable for the cost of any comprehensive medical evaluations obtained by the employee other than those authorized pursuant to Sections 4060, 4061, and 4062. However, no party is prohibited from obtaining any medical evaluation or consultation at the party’s own expense. In no event shall an employer or employee be liable for an evaluation obtained in violation of subdivision (b) of Section 4060. All comprehensive medical evaluations obtained by any party shall be admissible in any proceeding before the appeals board except as provided in subdivisions (d) and (m) of Section 4061 and subdivisions (b) and (e) of Section 4062.

SEC. 55. Section 4065 of the Labor Code is repealed.

SEC. 56. Section 4067 of the Labor Code is amended to read:

4067. If the jurisdiction of the appeals board is invoked pursuant to Section 5803 upon the grounds that the effects of the injury have recurred, increased, diminished, or terminated, a formal medical evaluation shall be obtained pursuant to this article.

When an agreed medical evaluator or a qualified medical evaluator selected by an unrepresented employee from a three-member panel has previously made a formal medical evaluation of the same or similar issues, the subsequent or additional formal medical evaluation shall be conducted by the same agreed medical evaluator or qualified medical evaluator, unless the workers’ compensation judge has made a finding that he or she did not rely on the prior evaluator’s formal medical evaluation, any party contested the original medical evaluation by filing an application for adjudication, the unrepresented employee hired an attorney and selected a qualified medical evaluator to conduct another evaluation pursuant to subdivision (b) of Section 4064, or the prior evaluator is no longer qualified or readily available to prepare a formal medical evaluation, in which case Sections 4061 or 4062, as the case may be, shall apply as if there had been no prior formal medical evaluation.

SEC. 57. Section 4453 of the Labor Code is amended to read:

4453. (a) In computing average annual earnings for the purposes of temporary disability indemnity and permanent total disability indemnity only, the average weekly earnings shall be taken at:

(1) Not less than one hundred twenty-six dollars ($126) nor more than two hundred ninety-four dollars ($294), for injuries occurring on or after January 1, 1983.
(2) Not less than one hundred sixty-eight dollars ($168) nor more than three hundred thirty-six dollars ($336), for injuries occurring on or after January 1, 1984.

(3) Not less than one hundred sixty-eight dollars ($168) for permanent total disability, and, for temporary disability, not less than the lesser of one hundred sixty-eight dollars ($168) or 1.5 times the employee’s average weekly earnings from all employers, but in no event less than one hundred forty-seven dollars ($147), nor more than three hundred ninety-nine dollars ($399), for injuries occurring on or after January 1, 1990.

(4) Not less than one hundred sixty-eight dollars ($168) for permanent total disability, and for temporary disability, not less than the lesser of one hundred eighty-nine dollars ($189) or 1.5 times the employee’s average weekly earnings from all employers, nor more than five hundred four dollars ($504), for injuries occurring on or after January 1, 1991.

(5) Not less than one hundred sixty-eight dollars ($168) for permanent total disability, and for temporary disability, not less than the lesser of one hundred eighty-nine dollars ($189) or 1.5 times the employee’s average weekly earnings from all employers, nor more than six hundred nine dollars ($609), for injuries occurring on or after July 1, 1994.

(6) Not less than one hundred sixty-eight dollars ($168) for permanent total disability, and for temporary disability, not less than the lesser of one hundred eighty-nine dollars ($189) or 1.5 times the employee’s average weekly earnings from all employers, nor more than six hundred seventy-two dollars ($672), for injuries occurring on or after July 1, 1995.

(7) Not less than one hundred sixty-eight dollars ($168) for permanent total disability, and for temporary disability, not less than the lesser of one hundred eighty-nine dollars ($189) or 1.5 times the employee’s average weekly earnings from all employers, nor more than seven hundred thirty-five dollars ($735), for injuries occurring on or after July 1, 1996.

(8) Not less than one hundred eighty-nine dollars ($189), nor more than nine hundred three dollars ($903) for injuries occurring on or after January 1, 2003.

(9) Not less than one hundred eighty-nine dollars ($189), nor more than one thousand ninety-two dollars ($1,092) for injuries occurring on or after January 1, 2004.

(10) Not less than one hundred eighty-nine dollars ($189), nor more than one thousand two hundred sixty dollars ($1,260) for injuries occurring on or after January 1, 2005. Commencing on January 1, 2006, and each January 1 thereafter, the limits specified in this paragraph shall
be increased by an amount equal to the percentage increase in the state average weekly wage as compared to the prior year. For purposes of this paragraph, “state average weekly wage” means the average weekly wage paid by employers to employees covered by unemployment insurance as reported by the United States Department of Labor for California for the 12 months ending March 31 of the calendar year preceding the year in which the injury occurred.

(b) In computing average annual earnings for purposes of permanent partial disability indemnity, except as provided in Section 4659, the average weekly earnings shall be taken at:

(1) Not less than seventy-five dollars ($75), nor more than one hundred ninety-five dollars ($195), for injuries occurring on or after January 1, 1983.

(2) Not less than one hundred five dollars ($105), nor more than two hundred ten dollars ($210), for injuries occurring on or after January 1, 1984.

(3) When the final adjusted permanent disability rating of the injured employee is 15 percent or greater, but not more than 24.75 percent: (A) not less than one hundred five dollars ($105) nor more than two hundred twenty-two dollars ($222), for injuries occurring on or after July 1, 1994; (B) not less than one hundred five dollars ($105) nor more than two hundred thirty-one dollars ($231) for injuries occurring on or after July 1, 1995; (C) not less than one hundred five dollars ($105) nor more than two hundred forty dollars ($240) for injuries occurring on or after July 1, 1996.

(4) When the final adjusted permanent disability rating of the injured employee is 25 percent or greater, not less than one hundred five dollars ($105), nor more than two hundred twenty-two dollars ($222), for injuries occurring on or after January 1, 1991.

(5) When the final adjusted permanent disability rating of the injured employee is 25 percent or greater but not more than 69.75 percent: (A) not less than one hundred fifty dollars ($150), nor more than two hundred seventy-seven dollars and fifty cents ($277.50), for injuries occurring on or after January 1, 2003; (B) not less than one hundred fifty-seven dollars and fifty cents ($157.50), nor more than three hundred dollars ($300), for injuries occurring on or after January 1, 1991.
occurring on or after January 1, 2004; (C) not less than one hundred fifty-seven dollars and fifty cents ($157.50), nor more than three hundred thirty dollars ($330) for injuries occurring on or after January 1, 2005; and (D) not less than one hundred ninety-five dollars ($195), nor more than three hundred forty-five dollars ($345), for injuries occurring on or after January 1, 2006.

(7) When the final adjusted permanent disability rating of the injured employee is 70 percent or greater, but less than 100 percent: (A) not less than one hundred five dollars ($105), nor more than two hundred fifty-two dollars ($252), for injuries occurring on or after July 1, 1994; (B) not less than one hundred five dollars ($105), nor more than two hundred ninety-seven dollars ($297), for injuries occurring on or after July 1, 1995; (C) not less than one hundred five dollars ($105), nor more than three hundred forty-five dollars ($345), for injuries occurring on or after January 1, 2003; (E) not less than one hundred fifty dollars ($150), nor more than three hundred forty-five dollars ($345), for injuries occurring on or after January 1, 2006.

(c) Between the limits specified in subdivisions (a) and (b), the average weekly earnings, except as provided in Sections 4456 to 4459, shall be arrived at as follows:

(1) Where the employment is for 30 or more hours a week and for five or more working days a week, the average weekly earnings shall be the number of working days a week times the daily earnings at the time of the injury.

(2) Where the employee is working for two or more employers at or about the time of the injury, the average weekly earnings shall be taken as the aggregate of these earnings from all employments computed in terms of one week; but the earnings from employments other than the employment in which the injury occurred shall not be taken at a higher rate than the hourly rate paid at the time of the injury.

(3) If the earnings are at an irregular rate, such as piecework, or on a commission basis, or are specified to be by week, month, or other period, then the average weekly earnings mentioned in subdivision (a) shall be taken as the actual weekly earnings averaged for this period of time, not exceeding one year, as may conveniently be taken to determine an average weekly rate of pay.
(4) Where the employment is for less than 30 hours per week, or where for any reason the foregoing methods of arriving at the average weekly earnings cannot reasonably and fairly be applied, the average weekly earnings shall be taken at 100 percent of the sum which reasonably represents the average weekly earning capacity of the injured employee at the time of his or her injury, due consideration being given to his or her actual earnings from all sources and employments.

d) Every computation made pursuant to this section beginning January 1, 1990, shall be made only with reference to temporary disability or the permanent disability resulting from an original injury sustained after January 1, 1990. However, all rights existing under this section on January 1, 1990, shall be continued in force. Except as provided in Section 4661.5, disability indemnity benefits shall be calculated according to the limits in this section in effect on the date of injury and shall remain in effect for the duration of any disability resulting from the injury.

SEC. 58. Section 4455 of the Labor Code is amended to read:

4455. If the injured employee is under 18 years of age, and his or her incapacity is permanent, his or her average weekly earnings shall be deemed, within the limits fixed in Section 4453, to be the weekly sum that under ordinary circumstances he or she would probably be able to earn at the age of 18 years, in the occupation in which he or she was employed at the time of the injury or in any occupation to which he or she would reasonably have been promoted if he or she had not been injured. If the probable earnings at the age of 18 years cannot reasonably be determined, his or her average weekly earnings shall be taken at the maximum limit established in Section 4453.

SEC. 59. Section 4600.1 is added to the Labor Code, to read:

4600.1. Any pharmacy providing medicines and medical supplies required by Section 4600 shall provide the generic drug equivalent, if a generic drug equivalent is available, unless the prescribing physician specifically provides otherwise in writing.

SEC. 60. Section 4600.2 is added to the Labor Code, to read:

4600.2. (a) Notwithstanding Section 4600, when a self-insured employer, group of self-insured employers, insurer of an employer, or group of insurers contracts with a pharmacy, group of pharmacies, or pharmacy benefit network to provide medicines and medical supplies required by this article to be provided to injured employees, those injured employees that are subject to the contract shall be provided medicines and medical supplies in the manner prescribed in the contract for as long as medicines or medical supplies are reasonably required to cure or relieve the injured employee from the effects of the injury.

(b) Nothing in this section shall affect the ability of employee-selected physicians to continue to prescribe and have the
employer provide medicines and medical supplies that the physicians
dem reasonably required to cure or relieve the injured employee from
the effects of the injury.

(c) Each contract described in subdivision (a) shall comply with
standards adopted by the administrative director. In adopting those
standards, the administrative director shall seek to reduce
pharmaceutical costs and may consult any relevant studies or practices
in other states. The standards shall provide for access to a pharmacy
within a reasonable geographic distance from an injured employee’s
residence.

SEC. 61. Section 4600.3 of the Labor Code is amended to read:

4600.3. (a) (1) Notwithstanding Section 4600, when a self-insured
employer, group of self-insured employers, or the insurer of an employer
contracts with a health care organization certified pursuant to Section
4600.5 for health care services required by this article to be provided to
injured employees, those employees who are subject to the contract shall
receive medical services in the manner prescribed in the contract,
providing that the employee may choose to be treated by a personal
physician, personal chiropractor, or personal acupuncturist that he or she
has designated prior to the injury, in which case the employee shall not
be treated by the health care organization. Every employee shall be given
an affirmative choice at the time of employment and at least annually
thereafter to designate or change the designation of a health care
organization or a personal physician, personal chiropractor, or personal
acupuncturist. The choice shall be memorialized in writing and
maintained in the employee’s personnel records. The employee who has
designated a personal physician, personal chiropractor, or personal
acupuncturist may change their designated caregiver at any time prior to
the injury. Any employee who fails to designate a personal physician,
personal chiropractor, or personal acupuncturist shall be treated by the
health care organization selected by the employer. If the health care
organization offered by the employer is the workers’ compensation
insurer that covers the employee or is an entity that controls or is
controlled by that insurer, as defined by Section 1215 of the Insurance
Code, this information shall be included in the notice of contract with
a health care organization.

(2) Each contract described in paragraph (1) shall comply with the
certification standards provided in Section 4600.5, and shall provide all
medical, surgical, chiropractic, acupuncture, and hospital treatment,
including nursing, medicines, medical and surgical supplies, crutches,
and apparatus, including artificial members, that is reasonably required
to cure or relieve the effects of the injury, as required by this division,
without any payment by the employee of deductibles, copayments, or
any share of the premium. However, an employee may receive
immediate emergency medical treatment that is compensable from a medical service or health care provider who is not a member of the health care organization.

(3) Insured employers, a group of self-insured employers, or self-insured employers who contract with a health care organization for medical services shall give notice to employees of eligible medical service providers and any other information regarding the contract and manner of receiving medical services as the administrative director may prescribe. Employees shall be duly notified that if they choose to receive care from the health care organization they must receive treatment for all occupational injuries and illnesses as prescribed by this section.

(b) Notwithstanding subdivision (a), no employer which is required to bargain with an exclusive or certified bargaining agent which represents employees of the employer in accordance with state or federal employer-employee relations law shall contract with a health care organization for purposes of Section 4600.5 with regard to employees whom the bargaining agent is recognized or certified to represent for collective bargaining purposes pursuant to state or federal employer-employee relations law unless authorized to do so by mutual agreement between the bargaining agent and the employer. If the collective bargaining agreement is subject to the National Labor Relations Act, the employer may contract with a health care organization for purposes of Section 4600.5 at any time when the employer and bargaining agent have bargained to impasse to the extent required by federal law.

(c) (1) When an employee is not receiving or is not eligible to receive health care coverage for nonoccupational injuries or illnesses provided by the employer, if 90 days from the date the injury is reported the employee who has been receiving treatment from a health care organization or his or her physician, chiropractor, acupuncturist, or other agent notifies his or her employer in writing that he or she desires to stop treatment by the health care organization, he or she shall have the right to be treated by a physician, chiropractor, or acupuncturist or at a facility of his or her own choosing within a reasonable geographic area.

(2) When an employee is receiving or is eligible to receive health care coverage for nonoccupational injuries or illnesses provided by the employer, and has agreed to receive care for occupational injuries and illnesses from a health care organization provided by the employer, the employee may be treated for occupational injuries and diseases by a physician, chiropractor, or acupuncturist of his or her own choice or at a facility of his or her own choice within a reasonable geographic area if the employee or his or her physician, chiropractor, acupuncturist, or other agent notifies his or her employer in writing only after 180 days from the date the injury was reported, or upon the date of contract
renewal or open enrollment of the health care organization, whichever occurs first, but in no case until 90 days from the date the injury was reported.

(3) For purposes of this subdivision, an employer shall be deemed to provide health care coverage for nonoccupational injuries and illnesses if the employer pays more than one-half the costs of the coverage, or if the plan is established pursuant to collective bargaining.

(d) An employee and employer may agree to other forms of therapy pursuant to Section 3209.7.

(e) An employee enrolled in a health care organization shall have the right to no less than one change of physician on request, and shall be given a choice of physicians affiliated with the health care organization. The health care organization shall provide the employee a choice of participating physicians within five days of receiving a request. In addition, the employee shall have the right to a second opinion from a participating physician on a matter pertaining to diagnosis or treatment from a participating physician.

(f) Nothing in this section or Section 4600.5 shall be construed to prohibit a self-insured employer, a group of self-insured employers, or insurer from engaging in any activities permitted by Section 4600.

(g) Notwithstanding subdivision (c), in the event that the employer, group of employers, or the employer’s workers’ compensation insurer no longer contracts with the health care organization that has been treating an injured employee, the employee may continue treatment provided or arranged by the health care organization. If the employee does not choose to continue treatment by the health care organization, the employer may control the employee’s treatment for 30 days from the date the injury was reported. After that period, the employee may be treated by a physician of his or her own choice or at a facility of his or her own choice within a reasonable geographic area.

SEC. 61.5. Section 4600.35 is added to the Labor Code, to read:

4600.35. Any entity seeking to reimburse health care providers for health care services rendered to injured workers on a capitated, or per person per month basis, shall be licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

SEC. 61.7. Section 4600.5 of the Labor Code is amended to read:

4600.5. (a) Any health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act, a disability insurer licensed by the Department of Insurance, or any entity, including, but not limited to, workers’ compensation insurers and third-party administrators authorized by the administrative director under subdivision (e), may make written application to the administrative director to become
certified as a health care organization to provide health care to injured employees for injuries and diseases compensable under this article.

(b) Each application for certification shall be accompanied by a reasonable fee prescribed by the administrative director, sufficient to cover the actual cost of processing the application. A certificate is valid for the period that the director may prescribe unless sooner revoked or suspended.

(c) If the health care organization is a health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act, that organization shall be deemed to be a health care organization able to provide health care pursuant to Section 4600.3 without further application. Those plans shall maintain good standing with the Department of Managed Health Care and meet the following additional requirements:

1. Proposes to provide all medical and health care services that may be required by this article.
2. Provides a program involving cooperative efforts by the employees, the employer, and the health plan to promote workplace health and safety, consultative and other services, and early return to work for injured employees.
3. Proposes a timely and accurate method to meet the requirements set forth by the administrative director for all carriers of workers’ compensation coverage to report necessary information regarding medical and health care service cost and utilization, rates of return to work, average time in medical treatment, and other measures as determined by the administrative director to enable the director to determine the effectiveness of the plan.
4. Demonstrates the capability to provide occupational medicine and related disciplines.
5. Complies with any other requirement the administrative director determines is necessary to provide medical services to injured employees consistent with the intent of this article, including, but not limited to, a written patient grievance policy.

(d) If the health care organization is a disability insurer licensed by the Department of Insurance, and is in compliance with subdivision (d) of Sections 10133 and 10133.5 of the Insurance Code, the administrative director shall certify the organization to provide health care pursuant to Section 4600.3 if the director finds that the plan is in good standing with the Department of Insurance and meets the following additional requirements:

1. Proposes to provide all medical and health care services that may be required by this article.
2. Provides a program involving cooperative efforts by the employees, the employer, and the health plan to promote workplace
health and safety, consultative and other services, and early return to work for injured employees.

(3) Proposes a timely and accurate method to meet the requirements set forth by the administrative director for all carriers of workers' compensation coverage to report necessary information regarding medical and health care service cost and utilization, rates of return to work, average time in medical treatment, and other measures as determined by the administrative director to enable the director to determine the effectiveness of the plan.

(4) Agrees to provide the administrative director with information, reports, and records prepared and submitted to the Department of Insurance in compliance with the Insurance Code relating to financial solvency, provider accessibility, peer review, utilization review, and quality assurance, upon request, if the administrative director determines the information is necessary to verify that the plan is providing medical treatment to injured employees consistent with the intent of this article.

Disclosure of peer review proceedings and records to the administrative director shall not alter the status of the proceedings or records as privileged and confidential communications pursuant to subdivision (d) of Section 10133 of the Insurance Code.

(5) Demonstrates the capability to provide occupational medicine and related disciplines.

(6) Complies with any other requirement the administrative director determines is necessary to provide medical services to injured employees consistent with the intent of this article, including, but not limited to, a written patient grievance policy.

(e) If the health care organization is a workers’ compensation insurer, third-party administrator, or any other entity that the administrative director determines meets the requirements of Section 4600.6, the administrative director shall certify the organization to provide health care pursuant to Section 4600.3 if the director finds that it meets the following additional requirements:

(1) Proposes to provide all medical and health care services that may be required by this article.

(2) Provides a program involving cooperative efforts by the employees, the employer, and the health plan to promote workplace health and safety, consultative and other services, and early return to work for injured employees.

(3) Proposes a timely and accurate method to meet the requirements set forth by the administrative director for all carriers of workers’ compensation coverage to report necessary information regarding medical and health care service cost and utilization, rates of return to work, average time in medical treatment, and other measures as
determined by the administrative director to enable the director to
determine the effectiveness of the plan.

(4) Agrees to provide the administrative director with information,
reports, and records relating to provider accessibility, peer review,
utilization review, quality assurance, advertising, disclosure, medical
and financial audits, and grievance systems, upon request, if the
administrative director determines the information is necessary to verify
that the plan is providing medical treatment to injured employees
consistent with the intent of this article.

Disclosure of peer review proceedings and records to the
administrative director shall not alter the status of the proceedings or
records as privileged and confidential communications pursuant to
subdivision (d) of Section 10133 of the Insurance Code.

(5) Demonstrates the capability to provide occupational medicine
and related disciplines.

(6) Complies with any other requirement the administrative director
determines is necessary to provide medical services to injured
employees consistent with the intent of this article, including, but not
limited to, a written patient grievance policy.

(7) Complies with the following requirements:

(A) An organization certified by the administrative director under
this subdivision may not provide or undertake to arrange for the
provision of health care to employees, or to pay for or to reimburse any
part of the cost of that health care in return for a prepaid or periodic
charge paid by or on behalf of those employees.

(B) Every organization certified under this subdivision shall operate
on a fee-for-service basis. As used in this section, fee for service refers
to the situation where the amount of reimbursement paid by the
employer to the organization or providers of health care is determined
by the amount and type of health care rendered by the organization or
provider of health care.

(C) An organization certified under this subdivision is prohibited
from assuming risk.

(f) (1) A workers’ compensation health care provider organization
authorized by the Department of Corporations on December 31, 1997,
shall be eligible for certification as a health care organization under
subdivision (e).

(2) An entity that had, on December 31, 1997, submitted an
application with the Commissioner of Corporations under Part 3.2
(commencing with Section 5150) shall be considered an applicant for
certification under subdivision (e) and shall be entitled to priority in
consideration of its application. The Commissioner of Corporations
shall provide complete files for all pending applications to the
administrative director on or before January 31, 1998.
(g) The provisions of this section shall not affect the confidentiality or admission in evidence of a claimant’s medical treatment records.

(h) Charges for services arranged for or provided by health care service plans certified by this section and that are paid on a per-enrollee-periodic-charge basis shall not be subject to the schedules adopted by the administrative director pursuant to Section 5307.1.

(i) Nothing in this section shall be construed to expand or constrict any requirements imposed by law on a health care service plan or insurer when operating as other than a health care organization pursuant to this section.

(j) In consultation with interested parties, including the Department of Corporations and the Department of Insurance, the administrative director shall adopt rules necessary to carry out this section.

(k) The administrative director shall refuse to certify or may revoke or suspend the certification of any health care organization under this section if the director finds that:

1. The plan for providing medical treatment fails to meet the requirements of this section.

2. A health care service plan licensed by the Department of Managed Health Care, a workers’ compensation health care provider organization authorized by the Department of Corporations, or a carrier licensed by the Department of Insurance is not in good standing with its licensing agency.

3. Services under the plan are not being provided in accordance with the terms of a certified plan.

(l) 1. When an injured employee requests chiropractic treatment for work-related injuries, the health care organization shall provide the injured worker with access to the services of a chiropractor pursuant to guidelines for chiropractic care established by paragraph (2). Within five working days of the employee’s request to see a chiropractor, the health care organization and any person or entity who directs the kind or manner of health care services for the plan shall refer an injured employee to an affiliated chiropractor for work-related injuries that are within the guidelines for chiropractic care established by paragraph (2). Chiropractic care rendered in accordance with guidelines for chiropractic care established pursuant to paragraph (2) shall be provided by duly licensed chiropractors affiliated with the plan.

2. The health care organization shall establish guidelines for chiropractic care in consultation with affiliated chiropractors who are participants in the health care organization’s utilization review process for chiropractic care, which may include qualified medical evaluators knowledgeable in the treatment of chiropractic conditions. The guidelines for chiropractic care shall, at a minimum, explicitly require the referral of any injured employee who so requests to an affiliated
(3) Whenever a dispute concerning the appropriateness or necessity of chiropractic care for work-related injuries arises, the dispute shall be resolved by the health care organization’s utilization review process for chiropractic care in accordance with the health care organization’s guidelines for chiropractic care established by paragraph (2).

Chiropractic utilization review for work-related injuries shall be conducted in accordance with the health care organization’s approved quality assurance standards and utilization review process for chiropractic care. Chiropractors affiliated with the plan shall have access to the health care organization’s provider appeals process and, in the case of chiropractic care for work-related injuries, the review shall include review by a chiropractor affiliated with the health care organization, as determined by the health care organization.

(4) The health care organization shall inform employees of the procedures for processing and resolving grievances, including those related to chiropractic care, including the location and telephone number where grievances may be submitted.

(5) All guidelines for chiropractic care and utilization review shall be consistent with the standards of this code that require care to cure or relieve the effects of the industrial injury.

(m) Individually identifiable medical information on patients submitted to the division shall not be subject to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(n) (1) When an injured employee requests acupuncture treatment for work-related injuries, the health care organization shall provide the injured worker with access to the services of an acupuncturist pursuant to guidelines for acupuncture care established by paragraph (2). Within five working days of the employee’s request to see an acupuncturist, the health care organization and any person or entity who directs the kind or manner of health care services for the plan shall refer an injured employee to an affiliated acupuncturist for work-related injuries that are within the guidelines for acupuncture care established by paragraph (2). Acupuncture care rendered in accordance with guidelines for acupuncture care established pursuant to paragraph (2) shall be provided by duly licensed acupuncturists affiliated with the plan.

(2) The health care organization shall establish guidelines for acupuncture care in consultation with affiliated acupuncturists who are participants in the health care organization’s utilization review process for acupuncture care, which may include qualified medical evaluators. The guidelines for acupuncture care shall, at a minimum, explicitly require the referral of any injured employee who so requests to an
affiliated acupuncturist for the evaluation or treatment, or both, of neuromusculoskeletal conditions.

(3) Whenever a dispute concerning the appropriateness or necessity of acupuncture care for work-related injuries arises, the dispute shall be resolved by the health care organization’s utilization review process for acupuncture care in accordance with the health care organization’s guidelines for acupuncture care established by paragraph (2).

Acupuncture utilization review for work-related injuries shall be conducted in accordance with the health care organization’s approved quality assurance standards and utilization review process for acupuncture care. Acupuncturists affiliated with the plan shall have access to the health care organization’s provider appeals process and, in the case of acupuncture care for work-related injuries, the review shall include review by an acupuncturist affiliated with the health care organization, as determined by the health care organization.

(4) The health care organization shall inform employees of the procedures for processing and resolving grievances, including those related to acupuncture care, including the location and telephone number where grievances may be submitted.

(5) All guidelines for acupuncture care and utilization review shall be consistent with the standards of this code that require care to cure or relieve the effects of the industrial injury.

SEC. 62. Section 4603.4 is added to the Labor Code, to read:

4603.4. (a) The administrative director shall adopt rules and regulations to do all of the following:

(1) Ensure that all health care providers and facilities submit medical bills for payment on standardized forms.

(2) Require acceptance by employers of electronic claims for payment of medical services.

(3) Ensure confidentiality of medical information submitted on electronic claims for payment of medical services.

(b) To the extent feasible, standards adopted pursuant to subdivision (a) shall be consistent with existing standards under the federal Health Insurance Portability and Accountability Act of 1996.

SEC. 62.5. Section 4628 of the Labor Code is amended to read:

4628. (a) Except as provided in subdivision (c), no person, other than the physician who signs the medical-legal report, except a nurse performing those functions routinely performed by a nurse, such as taking blood pressure, shall examine the injured employee or participate in the nonclerical preparation of the report, including all of the following:

(1) Taking a complete history.

(2) Reviewing and summarizing prior medical records.

(3) Composing and drafting the conclusions of the report.
(b) The report shall disclose the date when and location where the evaluation was performed; that the physician or physicians signing the report actually performed the evaluation; whether the evaluation performed and the time spent performing the evaluation was in compliance with the guidelines established by the Industrial Medical Council or the administrative director pursuant to paragraph (5) of subdivision (j) of Section 139.2 or Section 5307.6 and shall disclose the name and qualifications of each person who performed any services in connection with the report, including diagnostic studies, other than its clerical preparation. If the report discloses that the evaluation performed or the time spent performing the evaluation was not in compliance with the guidelines established by the Industrial Medical Council or the administrative director, the report shall explain, in detail, any variance and the reason or reasons therefor.

(c) If the initial outline of a patient’s history or excerpting of prior medical records is not done by the physician, the physician shall review the excerpts and the entire outline and shall make additional inquiries and examinations as are necessary and appropriate to identify and determine the relevant medical issues.

(d) No amount may be charged in excess of the direct charges for the physician’s professional services and the reasonable costs of laboratory examinations, diagnostic studies, and other medical tests, and reasonable costs of clerical expense necessary to producing the report. Direct charges for the physician’s professional services shall include reasonable overhead expense.

(e) Failure to comply with the requirements of this section shall make the report inadmissible as evidence and shall eliminate any liability for payment of any medical-legal expense incurred in connection with the report.

(f) Knowing failure to comply with the requirements of this section shall subject the physician to a civil penalty of up to one thousand dollars ($1,000) for each violation to be assessed by a workers’ compensation judge or the appeals board. All civil penalties collected under this section shall be deposited in the Workers’ Compensation Administration Revolving Fund.

(g) A physician who is assessed a civil penalty under this section may be terminated, suspended, or placed on probation as a qualified medical evaluator pursuant to subdivisions (k) and (l) of Section 139.2.

(h) Knowing failure to comply with the requirements of this section shall subject the physician to contempt pursuant to the judicial powers vested in the appeals board.

(i) Any person billing for medical-legal evaluations, diagnostic procedures, or diagnostic services performed by persons other than those employed by the reporting physician or physicians, or a medical
corporation owned by the reporting physician or physicians shall specify the amount paid or to be paid to those persons for the evaluations, procedures, or services. This subdivision shall not apply to any procedure or service defined or valued pursuant to Section 5307.1.

(j) The report shall contain a declaration by the physician signing the report, under penalty of perjury, stating:

“I declare under penalty of perjury that the information contained in this report and its attachments, if any, is true and correct to the best of my knowledge and belief, except as to information that I have indicated I received from others. As to that information, I declare under penalty of perjury that the information accurately describes the information provided to me and, except as noted herein, that I believe it to be true.”

The foregoing declaration shall be dated and signed by the reporting physician and shall indicate the county wherein it was signed.

(k) The physician shall provide a curriculum vitae upon request by a party and include a statement concerning the percent of the physician’s total practice time that is annually devoted to medical treatment.

SEC. 63. Section 4644 of the Labor Code is amended to read:

4644. (a) The liability of the employer for vocational rehabilitation services shall terminate when any of the following events occur:

(1) An employee who has received notice of potential eligibility to participate in a rehabilitation plan under Section 4637 declines vocational rehabilitation services in the form and manner prescribed by the administrative director.

(2) A qualified injured worker completes a vocational rehabilitation plan except as otherwise provided in subdivisions (c) and (d).

(3) The qualified injured worker unreasonably failed to complete a vocational rehabilitation plan.

(4) An employee has not requested vocational rehabilitation services within 90 days of the notification that the employee is medically eligible for vocational rehabilitation services. The liability of the employer for vocational rehabilitation services shall not terminate under this paragraph unless the employer, not earlier than 45 days nor later than 70 days after the employee’s receipt of the notice required by Section 4637, reminds the employee of his or her right to vocational rehabilitation services or until the 21st day after the employee receives the reminder notification. The reminder notification shall be in writing, in the form and manner prescribed by the administrative director, and shall be served by certified mail. The provisions of this paragraph shall not apply if the employee shows he or she was unable to comprehend the consequences of failing to timely request vocational rehabilitation services, or that, because of conditions beyond the control of the employee, the employee was unable to exercise his or her right to accept or decline vocational rehabilitation services.
(5) The employer offers, and the employee accepts or rejects, in the form and manner prescribed by the administrative director, modified work lasting at least 12 months, provided that an employer who offers modified work that is available for the 12-month period required by this paragraph meets the requirements of this paragraph even if the employee voluntarily quits prior to the end of that 12-month period.

(6) The employer offers and the employee accepts or rejects, in the form and manner prescribed by the administrative director, alternative work meeting all of the following conditions:
   (A) The employee has the ability to perform the essential functions of the job provided.
   (B) The job provided is in a regular position lasting at least 12 months. An employer who offers alternative work that is available for the 12-month period required by this paragraph meets the requirements of this paragraph even if the employee voluntarily quits prior to the end of the 12-month period.
   (C) The job provided offers wages and compensation that are within 15 percent of those paid to the employee at the time of injury.
   (D) The job is located within reasonable commuting distance of the employee’s residence at the time of injury.

(7) The employer offers, and the employee accepts, in the form and manner prescribed by the administrative director, work not meeting the conditions of paragraph (5) or (6) provided that the work lasts at least 12 months. The employee shall be required to reject the offer, in the form and manner prescribed by the administrative director, in order for the employee to be eligible for vocational rehabilitation services. An employer who offers work that is available for the 12-month period meets the requirements of this paragraph, even if the employee voluntarily quits prior to the end of that 12-month period.

(8) The employee and employer have agreed to self-directed vocational rehabilitation that is approved as set forth in Section 4646.

(b) Nothing in this article shall preclude the deferral or interruption of vocational rehabilitation services upon agreement of the employee and employer or, if no agreement can be reached, upon a good cause determination by the administrative director.

(c) (1) Except as provided in this section, vocational rehabilitation plans prepared pursuant to Section 4638 shall be limited to one plan per injured worker. The plans shall be completed within an 18-month period after approval of the plan. The plan shall not include a period of job placement exceeding 60 days unless the plan is exclusively utilizing transferable skills and experience for direct placement activities. In these cases, the period of job placement may be up to 90 days.
(2) The employee shall be entitled to one additional vocational rehabilitation plan only if the original plan is determined to be inappropriate due to one of the following:

(A) The employee’s disability has deteriorated to the point where the worker is unable to meet the physical demands of the first plan.

(B) The first plan is disrupted due to circumstances beyond the control of the employee.

(C) Failure by the employer to provide timely service required by this article and the vocational rehabilitation plan when the plan has not been completed.

The cost of the original and the additional plan plus all other vocational rehabilitation costs shall not exceed the overall cap and the counselor fee cap established in subdivision (c) of Section 139.5.

(d) Notwithstanding subdivision (c), an employee may apply to the rehabilitation unit for approval of a second vocational rehabilitation plan which exceeds the overall cap provided for in subdivision (c) of Section 139.5 if all of the following conditions are met:

(1) The employee has a permanent disability rating of 25 percent or greater. In reaching this determination, the rehabilitation unit shall consider any treating physicians’ reports.

(2) The first plan cannot be completed due to circumstances beyond the control of the employee. Those circumstances include the deterioration of the employee’s disability to the point where the worker cannot meet the requirements of the first plan.

(3) The rehabilitation unit finds that a second plan is necessary to provide the employee the opportunity for suitable gainful employment. Approval for circumstances other than a change in the employee’s disability must be based on objective and verifiable facts pursuant to rules promulgated by the administrative director.

However, in no case shall the cost solely attributable to the second plan exceed the overall cap and the counseling fee cap contained in subdivision (c) of Section 139.5.

(e) Notwithstanding subdivision (c), an employee may receive a second vocational rehabilitation plan that exceeds the overall cap provided for in subdivision (c) of Section 139.5 if the rehabilitation unit finds that the employee cannot complete the plan because the school or other training facility has closed or the worker has a sudden and unexpected change in disability that renders the plan inappropriate or other similar circumstances.

(f) Notwithstanding paragraph (2) of subdivision (a), if a qualified injured worker returns to modified or alternative work with the same employer or to work with a different employer as a result of direct job placement assistance and that employment terminates, other than for cause, within 12 months of the date the employee was employed at the
modified or alternative work, and if that work is unavailable in the labor market, the employer shall be liable, subject to Section 4642, for additional vocational rehabilitation services, provided that the employer’s liability for vocational rehabilitation services shall terminate if the employee voluntarily quits prior to the end of that 12-month period. To qualify for additional vocational rehabilitation services, the employee shall demonstrate an inability to compete for suitable gainful employment with his or her existing skills.

(g) An employer shall not be liable to provide vocational rehabilitation services at a location outside the state, unless upon agreement of the employer and the employee, or a determination by the Division of Workers’ Compensation that those services are more cost effective than similar services provided in the state.

SEC. 64. Section 4646 of the Labor Code is amended to read:

4646. (a) Settlement or commutation of prospective vocational rehabilitation services shall not be permitted under Chapter 2 (commencing with Section 5000) or Chapter 3 (commencing with Section 5100) of Part 3 except as set forth in subdivision (b), or upon a finding by a workers’ compensation judge that there are good faith issues that, if resolved against the employee, would defeat the employee’s right to all compensation under this division.

(b) The employer and a represented employee may agree to settle the employee’s right to prospective vocational rehabilitation services with a one-time payment to the employee not to exceed ten thousand dollars ($10,000) for the employee’s use in self-directed vocational rehabilitation. The settlement agreement shall be submitted to, and approved by, the administrative director’s vocational rehabilitation unit upon a finding that the employee has knowingly and voluntarily agreed to relinquish his or her rehabilitation rights. The rehabilitation unit may only disapprove the settlement agreement upon a finding that receipt of rehabilitation services is necessary to return the employee to suitable gainful employment.

(c) Prior to entering into any settlement agreement pursuant to this section, the attorney for a represented employee shall fully disclose and explain to the employee the nature and quality of the rights and privileges being waived.

SEC. 65. Section 4651 of the Labor Code is amended to read:

4651. (a) No disability indemnity payment shall be made by any written instrument unless it is immediately negotiable and payable in cash, on demand, without discount at some established place of business in the state.

Nothing in this section shall prohibit an employer from depositing the disability indemnity payment in an account in any bank, savings and loan association or credit union of the employee’s choice in this state,
provided the employee has voluntarily authorized the deposit, nor shall it prohibit an employer from electronically depositing the disability indemnity payment in an account in any bank, savings and loan association, or credit union, that the employee has previously authorized to receive electronic deposits of payroll, unless the employee has requested, in writing, that disability indemnity benefits not be electronically deposited in the account.

(b) It is not a violation of this section if a delay in the negotiation of a written instrument is caused solely by the application of state or federal banking laws or regulations.

(c) On or before July 1, 2004, the administrative director shall present to the Governor recommendations on how to provide better access to funds paid to injured workers in light of the requirements of federal and state laws and regulations governing the negotiability of disability indemnity payments. The administrative director shall make specific recommendations regarding payments to migratory and seasonal farmworkers. The Commission on Health and Safety and Workers’ Compensation and the Employment Development Department shall assist the administrative director in the completion of this report.

SEC. 66. Section 4658 of the Labor Code is amended to read:

4658. (a) For injuries occurring prior to January 1, 1992, if the injury causes permanent disability, the percentage of disability to total disability shall be determined, and the disability payment computed and allowed, according to paragraph (1). However, in no event shall the disability payment allowed be less than the disability payment computed according to paragraph (2).

(1)

<table>
<thead>
<tr>
<th>Column 1—Range of percentage of permanent disability incurred:</th>
<th>Column 2—Number of weeks for which two-thirds of average weekly earnings allowed for each 1 percent of permanent disability within percentage range:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 10</td>
<td>3</td>
</tr>
<tr>
<td>10–19.75</td>
<td>4</td>
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<tr>
<td>20–29.75</td>
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<td>7</td>
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<tr>
<td>70–99.75</td>
<td>8</td>
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</tbody>
</table>

The number of weeks for which payments shall be allowed set forth in column 2 above based upon the percentage of permanent disability set
forth in column 1 above shall be cumulative, and the number of benefit weeks shall increase with the severity of the disability. The following schedule is illustrative of the computation of the number of benefit weeks:

<table>
<thead>
<tr>
<th>Column 1—</th>
<th>Column 2—</th>
</tr>
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<tbody>
<tr>
<td>Percentage of permanent disability incurred:</td>
<td>Cumulative number of benefit weeks:</td>
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<td>541.25</td>
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<td>95</td>
<td>581.25</td>
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<td>100</td>
<td>for life</td>
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</table>

(2) Two-thirds of the average weekly earnings for four weeks for each 1 percent of disability, where, for the purposes of this subdivision, the average weekly earnings shall be taken at not more than seventy-eight dollars and seventy-five cents ($78.75).

(b) This subdivision shall apply to injuries occurring on or after January 1, 1992. If the injury causes permanent disability, the percentage of disability to total disability shall be determined, and the disability payment computed and allowed, according to paragraph (1). However, in no event shall the disability payment allowed be less than the disability payment computed according to paragraph (2).
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<td>9</td>
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</tbody>
</table>

The numbers set forth in column 2 above are based upon the percentage of permanent disability set forth in column 1 above and shall be cumulative, and shall increase with the severity of the disability in the manner illustrated in subdivision (a).

(2) Two-thirds of the average weekly earnings for four weeks for each 1 percent of disability, where, for the purposes of this subdivision, the average weekly earnings shall be taken at not more than seventy-eight dollars and seventy-five cents ($78.75).

(c) This subdivision shall apply to injuries occurring on or after January 1, 2004. If the injury causes permanent disability, the percentage of disability to total disability shall be determined, and the disability payment computed and allowed as follows:

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The numbers set forth in column 2 above are based upon the percentage of permanent disability set forth in column 1 above and shall be cumulative, and shall increase with the severity of the disability in the manner illustrated in subdivision (a).

SEC. 67. Section 4659 of the Labor Code is amended to read:

4659. (a) If the permanent disability is at least 70 percent, but less than 100 percent, 1.5 percent of the average weekly earnings for each 1 percent of disability in excess of 60 percent is to be paid during the remainder of life, after payment for the maximum number of weeks specified in Section 4658 has been made. For the purposes of this subdivision only, average weekly earnings shall be taken at not more than one hundred seven dollars and sixty-nine cents ($107.69). For injuries occurring on or after July 1, 1994, average weekly wages shall not be taken at more than one hundred fifty-seven dollars and sixty-nine cents ($157.69). For injuries occurring on or after July 1, 1995, average weekly wages shall not be taken at more than two hundred seven dollars and sixty-nine cents ($207.69). For injuries occurring on or after July 1, 1996, average weekly wages shall not be taken at more than two hundred fifty-seven dollars and sixty-nine cents ($257.69). For injuries occurring on or after January 1, 2006, average weekly wages shall not be taken at more than five hundred fifteen dollars and thirty-eight cents ($515.38).

(b) If the permanent disability is total, the indemnity based upon the average weekly earnings determined under Section 4453 shall be paid during the remainder of life.

(c) For injuries occurring on or after January 1, 2003, an employee who becomes entitled to receive a life pension or total permanent disability indemnity as set forth in subdivisions (a) and (b) shall have that payment increased annually commencing on January 1, 2004, and each January 1 thereafter, by an amount equal to the percentage increase in the “state average weekly wage” as compared to the prior year. For purposes of this subdivision, “state average weekly wage” means the average weekly wage paid by employers to employees covered by unemployment insurance as reported by the United States Department of Labor for California for the 12 months ending March 31 of the calendar year preceding the year in which the injury occurred.

SEC. 68. Section 4702 of the Labor Code is amended to read:

4702. (a) Except as otherwise provided in this section and Sections 4553, 4554, 4557, and 4558, the death benefit in cases of total dependency shall be as follows:

(1) In the case of two total dependents and regardless of the number of partial dependents, for injuries occurring before January 1, 1991, ninety-five thousand dollars ($95,000), for injuries occurring on or after January 1, 1991, one hundred fifteen thousand dollars ($115,000), for injuries occurring on or after July 1, 1994, one hundred thirty-five thousand dollars ($135,000), for injuries occurring on or after January 1, 2003, one hundred fifty-seven thousand dollars ($157,000), and for injuries occurring on or after January 1, 2006, one hundred fifty-five thousand dollars ($155,000).

(b) The death benefit in cases of total dependency shall be increased annually commencing on January 1, 2004, and each January 1 thereafter, by an amount equal to the percentage increase in the “state average weekly wage” as compared to the prior year. For purposes of this section, “state average weekly wage” means the average weekly wage paid by employers to employees covered by unemployment insurance as reported by the United States Department of Labor for California for the 12 months ending March 31 of the calendar year preceding the year in which the injury occurred.
thousand dollars ($135,000), for injuries occurring on or after July 1, 1996, one hundred forty-five thousand dollars ($145,000), and for injuries occurring on or after January 1, 2006, two hundred ninety thousand dollars ($290,000).

(2) In the case of one total dependent and one or more partial dependents, for injuries occurring before January 1, 1991, seventy thousand dollars ($70,000), for injuries occurring on or after January 1, 1991, ninety-five thousand dollars ($95,000), for injuries occurring on or after July 1, 1994, one hundred fifteen thousand dollars ($115,000), for injuries occurring on or after July 1, 1996, one hundred twenty-five thousand dollars ($125,000), and for injuries occurring on or after January 1, 2006, two hundred fifty thousand dollars ($250,000), plus four times the amount annually devoted to the support of the partial dependents, but not more than the following: for injuries occurring before January 1, 1991, a total of ninety-five thousand dollars ($95,000), for injuries occurring on or after January 1, 1991, one hundred fifteen thousand dollars ($115,000), for injuries occurring on or after July 1, 1994, one hundred twenty-five thousand dollars ($125,000), for injuries occurring on or after July 1, 1996, one hundred forty-five thousand dollars ($145,000), and for injuries occurring on or after January 1, 2006, two hundred ninety thousand dollars ($290,000).

(3) In the case of one total dependent and no partial dependents, for injuries occurring before January 1, 1991, seventy thousand dollars ($70,000), for injuries occurring on or after January 1, 1991, ninety-five thousand dollars ($95,000), for injuries occurring on or after July 1, 1994, one hundred fifteen thousand dollars ($115,000), for injuries occurring on or after July 1, 1996, one hundred twenty-five thousand dollars ($125,000), and for injuries occurring on or after January 1, 2006, two hundred fifty thousand dollars ($250,000).

(4) (A) In the case of no total dependents and one or more partial dependents, for injuries occurring before January 1, 1991, four times the amount annually devoted to the support of the partial dependents, but not more than seventy thousand dollars ($70,000), for injuries occurring on or after January 1, 1991, a total of ninety-five thousand dollars ($95,000), for injuries occurring on or after July 1, 1994, one hundred fifteen thousand dollars ($115,000), and for injuries occurring on or after July 1, 1996, but before January 1, 2006, one hundred twenty-five thousand dollars ($125,000).

(B) In the case of no total dependents and one or more partial dependents, eight times the amount annually devoted to the support of the partial dependents, for injuries occurring on or after January 1, 2006, but not more than two hundred fifty thousand dollars ($250,000).

(5) In the case of three or more total dependents and regardless of the number of partial dependents, one hundred fifty thousand dollars
($150,000), for injuries occurring on or after July 1, 1994, one hundred sixty thousand dollars ($160,000), for injuries occurring on or after July 1, 1996, and three hundred twenty thousand dollars ($320,000), for injuries occurring on or after January 1, 2006.

(6) In the case of no total dependents and no partial dependents, two hundred fifty thousand dollars ($250,000) to the estate of the deceased employee.

(b) The death benefit in all cases shall be paid in installments in the same manner and amounts as temporary total disability indemnity would have to be made to the employee, unless the appeals board otherwise orders. However, no payment shall be made at a weekly rate of less than two hundred twenty-four dollars ($224).

(c) Disability indemnity shall not be deducted from the death benefit and shall be paid in addition to the death benefit when the injury resulting in death occurs after September 30, 1949.

(d) All rights under this section existing prior to January 1, 1990, shall be continued in force.

SEC. 69. Section 4703.5 of the Labor Code is amended to read:

4703.5. In the case of one or more totally dependent minor children, as defined in Section 3501, after payment of the amount specified in Section 4702, and notwithstanding the maximum limitations specified in Sections 4702 and 4703, payment of death benefits shall continue until the youngest child attains age 18, or until the death of a child physically or mentally incapacitated from earning, in the same manner and amount as temporary total disability indemnity would have been paid to the employee, except that no payment shall be made at a weekly rate of less than two hundred twenty-four dollars ($224).

SEC. 70. Section 4903.5 is added to the Labor Code, to read:

4903.5. (a) No lien claim for expenses as provided in subdivision (b) of Section 4903 may be filed after six months from the date on which the appeals board or a workers’ compensation administrative law judge issues a final decision, findings, order, including an order approving compromise and release, or award, on the merits of the claim, after five years from the date of the injury for which the services were provided, or after one year from the date the services were provided, whichever is later.

(b) Notwithstanding subdivision (a), any health care provider, health care service plan, group disability insurer, employee benefit plan, or other entity providing medical benefits on a nonindustrial basis, may file a lien claim for expenses as provided in subdivision (b) of Section 4903 within six months after the person or entity first has knowledge that an industrial injury is being claimed.

(c) The injured worker shall not be liable for any underlying obligation if a lien claim has not been filed and served within the
allowable period. Except when the lien claimant is the applicant as provided in Section 5501, a lien claimant shall not file a declaration of readiness to proceed in any case until the case-in-chief has been resolved.

(d) This section shall not apply to civil actions brought under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of Part 2 of Division 7 of the Business and Professions Code), or the federal Racketeer Influenced and Corrupt Organization Act (Chapter 96 (commencing with Section 1961) of Title 18 of the United States Code) based on concerted action with other insurers that are not parties to the case in which the lien or claim is filed.

SEC. 70.5. Section 5275 of the Labor Code is amended to read:

5275. (a) Disputes involving the following issues shall be submitted for arbitration:

1. Insurance coverage.

2. Right of contribution in accordance with Section 5500.5.

(b) By agreement of the parties, any issue arising under Division 1 (commencing with Section 50) or Division 4 (commencing with Section 3200) may be submitted for arbitration, regardless of the date of injury.

SEC. 71. Section 5305 of the Labor Code is amended to read:

5305. The Division of Workers’ Compensation, including the administrative director, and the appeals board have jurisdiction over all controversies arising out of injuries suffered outside the territorial limits of this state in those cases where the injured employee is a resident of this state at the time of the injury and the contract of hire was made in this state. Any employee described by this section, or his or her dependents, shall be entitled to the compensation or death benefits provided by this division.

SEC. 72. Section 5307 of the Labor Code is amended to read:

5307. (a) Except for those rules and regulations within the authority of the court administrator regarding trial level proceedings as defined in subdivision (c), the appeals board may by an order signed by four members:

1. Adopt reasonable and proper rules of practice and procedure.

2. Regulate and provide the manner in which, and by whom, minors and incompetent persons are to appear and be represented before it.

3. Regulate and prescribe the kind and character of notices, where not specifically prescribed by this division, and the service thereof.

4. Regulate and prescribe the nature and extent of the proofs and evidence.

(b) No rule or regulation of the appeals board pursuant to this section shall be adopted, amended, or rescinded without public hearings. Any written request filed with the appeals board seeking a change in its rules
or regulations shall be deemed to be denied if not set by the appeals board for public hearing to be held within six months of the date on which the request is received by the appeals board.

(c) The court administrator shall adopt reasonable, proper, and uniform rules for district office procedure regarding trial level proceedings of the workers’ compensation appeals board. These rules shall include, but not be limited to, all of the following:

1. Rules regarding conferences, hearings, continuances, and other matters deemed reasonable and necessary to expeditiously resolve disputes.

2. The kind and character of forms to be used at all trial level proceedings.

All rules and regulations adopted by the court administrator pursuant to this subdivision shall be subject to the requirements of the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 73. Section 5307.2 is added to the Labor Code, to read:

5307.2. The administrative director, after public hearings, shall adopt, not later than July 1, 2003, and revise, no less frequently than biennially, an official pharmaceutical fee schedule that shall establish reasonable maximum fees paid for medicines and medical supplies provided pursuant to this division. This schedule shall be included within the official medical fee schedule adopted by the administrative director pursuant to Section 5307.1. In adopting the reasonable maximum fees included within the official pharmaceutical fee schedule, the administrative director may consult any relevant studies or practices in other states or in other payment systems in California. The schedule shall include a single dispensing fee. The schedule shall provide for access to a pharmacy within a reasonable geographic distance from an injured employee’s residence.

SEC. 74. Section 5307.21 is added to the Labor Code, to read:

5307.21. (a) The administrative director shall have the sole authority to develop an outpatient surgery facility fee schedule for services not performed under contract, provided that the schedule meets all of the following requirements:

1. The schedule shall include all facility charges for outpatient surgeries performed in any facility authorized by law to perform the surgeries. The schedule may not include the fee of any physician and surgeon providing services in connection with the surgery.

2. The schedule shall promote payment predictability, minimize administrative costs, and ensure access to outpatient surgery services by insured workers.
(3) The schedule shall be sufficient to cover the costs of each surgical procedure, as well as access to quality care.

(4) The schedule shall include specific provisions for review and revision of related fees no less frequently than biennially.

(5) The schedule shall be adopted after public hearings pursuant to Section 5307.3 and shall be included within the official medical fee schedule.

(b) The process used by the administrative director to develop an outpatient surgery fee schedule shall contain the following elements:

(1) A formal analysis of one year of published data collected pursuant to Section 128737 of the Health and Safety Code, with the assistance of an independent consultant with demonstrated expertise in outpatient surgery service.

(2) Any published data collected from providers of outpatient surgery services.

(3) Payment data including, but not limited to, type of payer and amount charged.

(4) Cost data including, but not limited to, actual expenses for labor, supplies, equipment, implants, anesthesia, overhead, and administration.

(5) Outcome data including, but not limited to, expected level of rehabilitation, expected coverage timeframe, and incidence of infection.

(6) Access data including, but not limited to, date of injury, date of surgery recommendation, and data of procedure.

(7) Other data that is mutually agreed to by the Office of Statewide Health Planning and Development and the administrative director. The administrative director shall consult with the Office of Statewide Health Planning and Development to ensure that the data collected is comprehensive and relevant to the development of a fee schedule.

(c) The outpatient surgery facility fee schedule shall reflect input from workers’ compensation insurance carriers, businesses, organized labor, providers of outpatient surgical services, and patients receiving outpatient surgical services.

SEC. 75. Section 5310 of the Labor Code is amended to read:

5310. The appeals board may appoint one or more workers’ compensation administrative law judges in any proceeding, as it may deem necessary or advisable, and may refer, remove to itself, or transfer to a workers’ compensation administrative law judge the proceedings on any claim. The administrative director, after consideration of the recommendation of the court administrator, may appoint workers’ compensation administrative law judges. Any workers’ compensation administrative law judge appointed by the administrative director has the powers, jurisdiction, and authority granted by law, by the order of appointment, and by the rules of the appeals board.
SEC. 76. Section 5311.5 of the Labor Code is amended to read:
5311.5. The administrative director or the court administrator shall require all workers’ compensation administrative law judges to participate in continuing education to further their abilities as workers’ compensation administrative law judges, including courses in ethics and conflict of interest. The director may coordinate the requirements with those imposed upon attorneys by the State Bar in order that the requirements may be consistent.

SEC. 77. Section 5401 of the Labor Code is amended to read:
5401. (a) Within one working day of receiving notice or knowledge of injury under Section 5400 or 5402, which injury results in lost time beyond the employee’s work shift at the time of injury or which results in medical treatment beyond first aid, the employer shall provide, personally or by first-class mail, a claim form and a notice of potential eligibility for benefits under this division to the injured employee, or in the case of death, to his or her dependents. As used in this subdivision, “first aid” means any one-time treatment, and any followup visit for the purpose of observation of minor scratches, cuts, burns, splinters, or other minor industrial injury, which do not ordinarily require medical care. This one-time treatment, and followup visit for the purpose of observation, is considered first aid even though provided by a physician or registered professional personnel. “Minor industrial injury” shall not include serious exposure to a hazardous substance as defined in subdivision (i) of Section 6302. The claim form shall request the injured employee’s name and address, social security number, the time and address where the injury occurred, and the nature of and part of the body affected by the injury. Claim forms shall be available at district offices of the Employment Development Department and the division. Claim forms may be made available to the employee from any other source.

(b) Insofar as practicable, the notice of potential eligibility for benefits required by this section and the claim form shall be a single document and shall instruct the injured employee to fully read the notice of potential eligibility. The form and content of the notice and claim form shall be prescribed by the administrative director after consultation with the Commission on Health and Safety and Workers’ Compensation. The notice shall be easily understandable and available in both English and Spanish. The content shall include, but not be limited to, the following:

(1) The procedure to be used to commence proceedings for the collection of compensation for the purposes of this chapter.

(2) A description of the different types of workers’ compensation benefits.

(3) What happens to the claim form after it is filed.

(4) From whom the employee can obtain medical care for the injury.

(5) The role and function of the primary treating physician.
(6) The rights of an employee to select and change the treating physician pursuant to subdivision (e) of Section 3550 and Section 4600.

(7) How to get medical care while the claim is pending.

(8) The protections against discrimination provided pursuant to Section 132a.

(9) The following written statements:
   (A) You have a right to disagree with decisions affecting your claim.
   (B) You can obtain free information from an information and assistance officer of the state Division of Workers’ Compensation, or you can hear recorded information and a list of local offices by calling [applicable information and assistance telephone number(s)].
   (C) You can consult an attorney. Most attorneys offer one free consultation. If you decide to hire an attorney, his or her fee will be taken out of some of your benefits. For names of workers’ compensation attorneys, call the State Bar of California at [telephone number of the State Bar of California’s legal specialization program, or its equivalent].

(c) The completed claim form shall be filed with the employer by the injured employee, or, in the case of death, by a dependent of the injured employee, or by an agent of the employee or dependent. Except as provided in subdivision (d), a claim form is deemed filed when it is personally delivered to the employer or received by the employer by first-class or certified mail. A dated copy of the completed form shall be provided by the employer to the employer’s insurer and to the employee, dependent, or agent who filed the claim form.

(d) The claim form shall be filed with the employer prior to the injured employee’s entitlement to late payment supplements under subdivision (d) of Section 4650, or prior to the injured employee’s request for a medical evaluation under Section 4060, 4061, or 4062. Filing of the claim form with the employer shall toll, for injuries occurring on or after January 1, 1994, the time limitations set forth in Sections 5405 and 5406 until the claim is denied by the employer or the injury becomes presumptively compensable pursuant to Section 5402. For purposes of this subdivision, a claim form is deemed filed when it is personally delivered to the employer or mailed to the employer by first-class or certified mail.

SEC. 78. Section 5405 of the Labor Code is amended to read:

5405. The period within which proceedings may be commenced for the collection of the benefits provided by Article 2 (commencing with Section 4600) or Article 3 (commencing with Section 4650), or both, of Chapter 2 of Part 2 is one year from any of the following:

(a) The date of injury.

(b) The expiration of any period covered by payment under Article 3 (commencing with Section 4650) of Chapter 2 of Part 2.
(c) The last date on which any benefits provided for in Article 2 (commencing with Section 4600) of Chapter 2 of Part 2 were furnished.

SEC. 79. Section 5500.3 of the Labor Code is amended to read:

5500.3. (a) The court administrator shall establish uniform district office procedures, uniform forms, and uniform time of court settings for all district offices of the appeals board. No district office of the appeals board or workers’ compensation administration law judge shall require forms or procedures other than as established by the court administrator. The court administrator shall take reasonable steps to ensure enforcement of this section. A workers’ compensation administrative law judge who violates this section may be subject to disciplinary proceedings.

(b) The appeals board shall establish uniform court procedures and uniform forms for all other proceedings of the appeals board. No district office of the appeals board or workers’ compensation administrative law judge shall require forms or procedures other than as established by the appeals board.

SEC. 80. Section 5502 of the Labor Code is amended to read:

5502. (a) Except as provided in subdivisions (b) and (d), the hearing shall be held not less than 10 days, and not more than 60 days, after the date a declaration of readiness to proceed, on a form prescribed by the court administrator, is filed. If a claim form has been filed for an injury occurring on or after January 1, 1990, and before January 1, 1994, an application for adjudication shall accompany the declaration of readiness to proceed.

(b) The court administrator shall establish a priority calendar for issues requiring an expedited hearing and decision. A hearing shall be held and a determination as to the rights of the parties shall be made and filed within 30 days after the declaration of readiness to proceed is filed if the issues in dispute are any of the following:

1. The employee’s entitlement to medical treatment pursuant to Section 4600.

2. The employee’s entitlement to, or the amount of, temporary disability indemnity payments.

3. The employee’s entitlement to vocational rehabilitation services, or the termination of an employer’s liability to provide these services to an employee.

4. The employee’s entitlement to compensation from one or more responsible employers when two or more employers dispute liability as among themselves.

5. Any other issues requiring an expedited hearing and determination as prescribed in rules and regulations of the administrative director.
(c) The court administrator shall establish a priority conference calendar for cases in which the employee is represented by an attorney and the issues in dispute are employment or injury arising out of employment or in the course of employment. The conference shall be conducted by a workers’ compensation administrative law judge within 30 days after the declaration of readiness to proceed. If the dispute cannot be resolved at the conference, a trial shall be set as expeditiously as possible, unless good cause is shown why discovery is not complete, in which case status conferences shall be held at regular intervals. The case shall be set for trial when discovery is complete, or when the workers’ compensation administrative law judge determines that the parties have had sufficient time in which to complete reasonable discovery. A determination as to the rights of the parties shall be made and filed within 30 days after the conference.

(d) The court administrator shall report quarterly to the Governor and to the Legislature concerning the frequency and types of issues which are not heard and decided within the period prescribed in this section and the reasons therefor.

(e) (1) In all cases, a mandatory settlement conference shall be conducted not less than 10 days, and not more than 30 days, after the filing of a declaration of readiness to proceed. If the dispute is not resolved, the regular hearing shall be held within 75 days after the declaration of readiness to proceed is filed.

(2) The settlement conference shall be conducted by a workers’ compensation administrative law judge or by a referee who is eligible to be a workers’ compensation administrative law judge or eligible to be an arbitrator under Section 5270.5. At the mandatory settlement conference, the referee or workers’ compensation administrative law judge shall have the authority to resolve the dispute, including the authority to approve a compromise and release or issue a stipulated finding and award, and if the dispute cannot be resolved, to frame the issues and stipulations for trial. The appeals board shall adopt any regulations needed to implement this subdivision. The presiding workers’ compensation administrative law judge shall supervise settlement conference referees in the performance of their judicial functions under this subdivision.

(3) If the claim is not resolved at the mandatory settlement conference, the parties shall file a pretrial conference statement noting the specific issues in dispute, each party’s proposed permanent disability rating, and listing the exhibits, and disclosing witnesses. Discovery shall close on the date of the mandatory settlement conference. Evidence not disclosed or obtained thereafter shall not be admissible unless the proponent of the evidence can demonstrate that it was not available or
could not have been discovered by the exercise of due diligence prior to the settlement conference.

(f) In cases involving the Director of the Department of Industrial Relations in his or her capacity as administrator of the Uninsured Employers Fund, this section shall not apply unless proof of service, as specified in paragraph (1) of subdivision (d) of Section 3716 has been filed with the appeals board and provided to the Director of Industrial Relations, valid jurisdiction has been established over the employer, and the fund has been joined.

(g) Except as provided in subdivision (a) and in Section 4065, the provisions of this section shall apply irrespective of the date of injury.

SEC. 81. Section 5814 of the Labor Code is amended to read:

5814. When payment of compensation has been unreasonably delayed or refused, either prior to or subsequent to the issuance of an award, the full amount of the order, decision, or award shall be increased by 10 percent. Multiple increases shall not be awarded for repeated delays in making a series of payments due for the same type or specie of benefit unless there has been a legally significant event between the delay and the subsequent delay in payments of the same type or specie of benefits. The question of delay and the reasonableness of the cause therefor shall be determined by the appeals board in accordance with the facts. This delay or refusal shall constitute good cause under Section 5803 to rescind, alter, or amend the order, decision, or award for the purpose of making the increase provided for herein.

SEC. 82. Section 5814.5 of the Labor Code is amended to read:

5814.5. When the payment of compensation has been unreasonably delayed or refused subsequent to the issuance of an award by an employer that has secured the payment of compensation pursuant to Section 3700, the appeals board shall, in addition to increasing the order, decision, or award pursuant to Section 5814, award reasonable attorneys’ fees incurred in enforcing the payment of compensation awarded.

SEC. 83. Section 6354.5 of the Labor Code is amended to read:

6354.5. (a) Any insurer desiring to write workers’ compensation insurance shall maintain or provide occupational safety and health loss control consultation services. The insurer may employ qualified personnel to provide these services or provide the services through another entity.

(b) The program of an insurer for furnishing loss control consultation services shall be adequate to meet minimum standards prescribed by this section. Required loss control consultation services shall be adequate to identify the hazards exposing the insured to, or causing the insured, significant workers’ compensation losses, and to advise the insured of steps needed to mitigate the identified workers’ compensation losses or
exposures. The program of an insurer for furnishing loss control consultation services shall provide all of the following:

(1) A workplace survey, including discussions with management and, where appropriate, nonmanagement personnel with permission of the employer.

(2) A review of injury records with appropriate personnel.

(3) The development of a plan to improve the employer’s health and safety loss control experience, which shall include, where appropriate, modifications to the employer’s injury and illness prevention program established pursuant to Section 6401.7. At the time that an insurance policy is issued and annually thereafter, and again when notified by Cal-OSHA that an insured employer has been identified as a targeted employer pursuant to Section 6314.1, the insurer shall provide each insured employer with a written description of the consultation services together with a notice that the services are available at no additional charge to the employer. These notices to the employer shall appear in at least 10-point bold type.

(c) The insurer shall not charge any fee in addition to the insurance premium for safety and health loss control consultation services.

(d) Nothing in this section shall be construed to require insurers to provide loss control services to places of employment that do not pose significant preventable hazards to workers.

(e) The director shall establish an insurance loss control services coordinator position in the Department of Industrial Relations. The coordinator shall provide information to employers about the availability of loss control consultation services and respond to employers’ questions and complaints about loss control consultation services provided by their insurer. The coordinator shall notify the insurer of every complaint concerning loss control consultation services. If the employer and the insurer are unable to agree on a mutually satisfactory solution to the complaint, the coordinator shall investigate the complaint. Whenever the coordinator determines that the loss control consultation services provided by the insurer are inadequate or inappropriate, he or she shall recommend to the employer and the insurer the actions required to bring the loss control program into compliance. If the employer and the insurer are unable to agree on a mutually satisfactory solution to the complaint, the coordinator shall forward his or her recommendations to the director. The cost of providing the coordinator services shall be paid out of the Workers’ Occupational Safety and Health Education Fund created by subdivision (a) of Section 6354.7. However, no more than 20 percent of that fund may be expended for this purpose each year.

SEC. 84. Section 6354.7 is added to the Labor Code, to read:
6354.7. (a) The Workers’ Occupational Safety and Health Education Fund is hereby created as a special account in the State Treasury. Proceeds of the fund may be expended, upon appropriation by the Legislature, by the Commission on Health and Safety and Workers’ Compensation for the purpose of establishing and maintaining a worker occupational safety and health training and education program and insurance loss control services coordinator. The director shall levy and collect fees to fund these purposes from insurers subject to Section 6354.5. However, the fee assessed against any insurer shall not exceed the greater of one hundred dollars ($100) or 0.0286 percent of paid workers’ compensation indemnity claims as reported for the previous calendar year to the designated rating organization for the analysis required under subdivision (b) of Section 11759.1 of the Insurance Code. All fees shall be deposited in the fund.

(b) The commission shall establish and maintain a worker safety and health training and education program. The purpose of the worker occupational safety and health training and education program shall be to promote awareness of the need for prevention education programs, to develop and provide injury and illness prevention education programs for employees and their representatives, and to deliver those awareness and training programs through a network of providers throughout the state. The commission may conduct the program directly or by means of contracts or interagency agreements.

(c) The commission shall establish an employer and worker advisory board for the program. The advisory board shall guide the development of curricula, teaching methods, and specific course material about occupational safety and health, and shall assist in providing links to the target audience and broadening the partnerships with worker-based organizations, labor studies programs, and others that are able to reach the target audience.

(d) The program shall include the development and provision of a needed core curriculum addressing competencies for effective participation in workplace injury and illness prevention programs and on joint labor-management health and safety committees. The core curriculum shall include an overview of the requirements related to injury and illness prevention programs and hazard communication.

(e) The program shall include the development and provision of additional training programs for any or all of the following categories:

(1) Industries on the high hazard list.

(2) Hazards that result in significant worker injuries, illnesses, or compensation costs.

(3) Industries or trades where workers are experiencing numerous or significant injuries or illnesses.
(4) Occupational groups with special needs, such as those who do not speak English as their first language, workers with limited literacy, young workers, and other traditionally underserved industries or groups of workers. Priority shall be given to training workers who are able to train other workers and workers who have significant health and safety responsibilities, such as those workers serving on a health and safety committee or serving as designated safety representatives.

(f) The program shall operate one or more libraries and distribution systems of occupational safety and health training material, which shall include, but not be limited to, all material developed by the program pursuant to this section.

(g) The advisory board shall annually prepare a written report evaluating the use and impact of programs developed.

(h) The payment of administrative costs incurred by the commission in conducting the program shall be made from the Workers’ Occupational Safety and Health Education Fund.

SEC. 85. The Director of Industrial Relations shall establish the following new positions for staffing of the workers’ compensation courts:

(a) Eight workers’ compensation administrative law judges.
(b) Eight hearing reporters.
(c) Eight senior typists (legal).

SEC. 86. It is the intent of the Legislature that all reimbursement expended by the Administrative Director of the Division of Workers’ Compensation for the administration of the workers’ compensation Return-to-Work Program established in Section 139.48 of the Labor Code shall be funded from the funds collected in the annual premium tax, collected under Section 12201 of the Revenue and Taxation Code, which is directly attributable to the compensation benefit rates and amounts set forth in the Revenue and Taxation Code.

SEC. 87. It is the intent of the Legislature that nothing in this act shall be interpreted to require any change in the administration, alternative dispute resolution component, or medical treatment component, of any program approved pursuant to Section 3201.5 of the Labor Code prior to January 1, 2003.

SEC. 88. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 89. 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 7

An act to amend Section 1232 of the Water Code, relating to water.

[Approved by Governor February 19, 2002. Filed with Secretary of State February 19, 2002.]

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

SECTION 1. Section 1232 of the Water Code is amended to read:

1232. (a) Except as provided in subdivision (b), nothing in this article applies to interstate lakes, or streams flowing in or out of those lakes.

(b) This article applies to any appropriation or change in point of diversion, place of use, or purpose of use under a right to the use of waters from the Truckee River if the appropriation or change is made pursuant to the operating agreement described in Section 205 (a) of Public Law 101-618.

CHAPTER 8

An act to add Section 1019 to the Fish and Game Code, to add Section 12805.2 to the Government Code, and to add and repeal Section 5096.686 of the Public Resources Code, relating to public land, and making an appropriation therefor.

[Approved by Governor February 19, 2002. Filed with Secretary of State February 19, 2002.]

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

SECTION 1. It is the intent of the Legislature in enacting this act that the Resources Agency coordinate the land acquisition and land management activities of the departments, boards, commissions, and conservancies within the agency in order to improve state planning and oversight.

SEC. 2. Section 1019 is added to the Fish and Game Code, to read:
1019. (a) Subject to an appropriation of funds by the Legislature for that purpose for parcels wholly within its jurisdiction acquired on or after January 1, 2002, the department shall prepare draft management plans for public review within 18 months of the recordation date.

(b) (1) On or before February 1 of each year, the department shall submit a list of lands acquired during the previous two fiscal years and the status of the management plans for each acquisition to the fiscal committees of each house of the Legislature.

(2) Each fiscal committee in the Legislature shall consider the lists described in paragraph (1) in its budget decisions for the department.

SEC. 3. Section 12805.2 is added to the Government Code, to read:

12805.2. (a) The Resources Agency, in consultation with each department, board, conservancy, and commission within the agency, shall develop and maintain a database of lands and easements that have been acquired by the departments and boards within the Resources Agency. The database shall include, but need not be limited to, all of the following:

(1) The name of the owner of the land or easement.
(2) The location of the land or easement.
(3) The statutory authority for the acquisition of the land or easement.

(b) In conjunction with the database described in subdivision (a), the Resources Agency shall do all of the following:

(1) On or before September 1, 2002, and each year thereafter, request that all departments, boards, commissions, and conservancies within the Resources Agency provide the Secretary of the Resources Agency with information on any acquisitions of land or funding that was directed to the acquisition of land, undertaken by the department, board, commission, or conservancy.

(2) To the extent that the information is available, on or before January 10, 2003, and each year thereafter, require that all departments, boards, commissions, and conservancies within the Resources Agency provide the Secretary of the Resources Agency with general information, including a general geographic description of land acquisition priorities and potential funding sources during the next fiscal year.

(3) To the extent feasible, review and evaluate any available information from federal agencies pertaining to its land acquisition activities to coordinate and better understand the impact on California state proposals.

(4) Provide a report to the Governor and the Legislature on or before December 31, 2003, and each year thereafter, that does both of the following:
(A) Describes the amount of land acquired by each department, board, commission, and conservancy within the Resources Agency during the past year and the amount of money spent for the acquisition.

(B) Projects the approximate amount of land that will be acquired by the Resources Agency during the following year.

(5) Provide the report described in paragraph (4) to the Secretary of Food and Agriculture and the Director of Conservation.

(6) Establish a uniform open process to ensure that information is readily available to the general public, local, state, and federal agencies, adjacent landowners, and other interested parties of record regarding any state hearings to approve proposed state land acquisitions.

(7) Develop strategies with local, state, and federal agencies so that a revenue stream is established to ensure management plans are adequately funded for all new acquisitions.

(c) This section shall be implemented only during those fiscal years for which funding is provided for the purposes of this section in the annual Budget Act or in another measure.

SEC. 4. Section 5096.686 is added to the Public Resources Code, to read:

5096.686. (a) The Resources Agency shall prepare an annual summary report of expenditures on the California Clean Water, Safe Neighborhood Parks, and Coastal Protection Bond Act of 2002, if that act is enacted during the 2001–02 Regular Session of the Legislature, and shall make that information available to the public through the Internet and any other means the Resources Agency determines is cost-effective.

(b) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2010, deletes or extends that date.

CHAPTER  9

An act to amend, repeal, and add Section 1785.10 of the Civil Code, relating to consumer credit, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 19, 2002. Filed with Secretary of State February 19, 2002.]

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

SECTION 1. Section 1785.10 of the Civil Code is amended to read:
1785.10. (a) Every consumer credit reporting agency shall, upon request and proper identification of any consumer, allow the consumer to visually inspect all files maintained regarding that consumer at the time of the request.

(b) Every consumer reporting agency, upon contact by a consumer by telephone, mail, or in person regarding information which may be contained in the agency files regarding that consumer, shall promptly advise the consumer of his or her rights under Sections 1785.11.8, 1785.19, and 1785.19.5, and of the obligation of the agency to provide disclosure of the files in person, by mail, or by telephone pursuant to Section 1785.15, including the obligation of the agency to provide a decoded written version of the file or a written copy of the file with an explanation of any code, including any credit score used, and the key factors, as defined in Section 1785.15.1, if the consumer so requests that copy. The disclosure shall be provided in the manner selected by the consumer, chosen from among any reasonable means available to the consumer credit reporting agency.

The agency shall determine the applicability of subdivision (1) of Section 1785.17 and, where applicable, the agency shall inform the consumer of the rights under that section.

(c) All information on a consumer in the files of a consumer credit reporting agency at the time of a request for inspection under subdivision (a), shall be available for inspection, including the names and addresses of the sources of information.

(d) (1) The consumer credit reporting agency shall also disclose the recipients of any consumer credit report on the consumer which the consumer credit reporting agency has furnished:

(A) For employment purposes within the two-year period preceding the request.

(B) For any other purpose within the 12-month period preceding the request.

(2) Disclosure of recipients of consumer credit reports for purposes of this subdivision shall include the name of the recipient or, if applicable, the fictitious business name under which the recipient does business disclosed in full. If requested by the consumer, the identification shall also include the address of the recipient.

(e) The consumer credit reporting agency shall also disclose a record of all inquiries received by the agency in the 12-month period preceding the request that identified the consumer in connection with a credit transaction which is not initiated by the consumer. This record of inquiries shall include the name of each recipient making an inquiry.

(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. 2. Section 1785.10 is added to the Civil Code, to read:

1785.10. (a) Every consumer credit reporting agency shall, upon request and proper identification of any consumer, allow the consumer to visually inspect all files maintained regarding that consumer at the time of the request.

(b) Every consumer reporting agency, upon contact by a consumer by telephone, mail, or in person regarding information which may be contained in the agency files regarding that consumer, shall promptly advise the consumer of his or her rights under Sections 1785.11.8, 1785.19, and 1785.19.5, and of the obligation of the agency to provide disclosure of the files in person, by mail, or by telephone pursuant to Section 1785.15, including the obligation of the agency to provide a decoded written version of the file or a written copy of the file with an explanation of any code, including any credit score used, and the key factors, as defined in Section 1785.15.1, if the consumer so requests that copy. The disclosure shall be provided in the manner selected by the consumer, chosen from among any reasonable means available to the consumer credit reporting agency.

The agency shall determine the applicability of subdivision (1) of Section 1785.17 and, where applicable, the agency shall inform the consumer of the rights under that section.

(c) All information on a consumer in the files of a consumer credit reporting agency at the time of a request for inspection under subdivision (a), shall be available for inspection, including the names, addresses and, if provided by the sources of information, the telephone numbers identified for customer service for the sources of information.

(d) (1) The consumer credit reporting agency shall also disclose the recipients of any consumer credit report on the consumer which the consumer credit reporting agency has furnished:

(A) For employment purposes within the two-year period preceding the request.

(B) For any other purpose within the 12-month period preceding the request.

(2) Disclosure of recipients of consumer credit reports for purposes of this subdivision shall include the name of the recipient or, if applicable, the fictitious business name under which the recipient does business disclosed in full. The identification shall also include the address and, if provided by the recipient, the telephone number identified for customer service for the recipient.

(e) The consumer credit reporting agency shall also disclose a record of all inquiries received by the agency in the 12-month period preceding the request that identified the consumer in connection with a credit transaction which is not initiated by the consumer. This record of inquiries shall include the name, address and, if provided by the
recipient, the telephone number identified for customer service for each recipient making an inquiry.

(f) Any consumer credit reporting agency when it is subject to the provisions of Section 1785.22 is exempted from the requirements of subdivisions (c), (d), and (e), only with regard to the provision of the address and telephone number.

(g) Any consumer credit reporting agency that provides a consumer credit report to another consumer credit reporting agency that procures the consumer credit report for the purpose of resale and is subject to Section 1785.22, is exempted from the requirements of subdivisions (d) and (e), only with regard to the provision of the address and telephone number regarding each prospective user to which the consumer credit report was sold.

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

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 preserve and clarify the delayed operative date of January 1, 2003, set forth in Section 3 of Chapter 236 of the Statutes of 2001 with respect to the amendments to Section 1785.10 of the Civil Code made by Section 1.5 of Chapter 354 of the Statutes of 2001, which incorporate the changes to that section made by Chapter 236 of the Statutes of 2001, and to coordinate those changes with the other changes to the Civil Code made by Chapter 236 of the Statutes of 2001 which will become operative on January 1, 2003, it is necessary that this bill take effect immediately.

CHAPTER 10

An act to amend, repeal, and add Section 13102 of the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 19, 2002. Filed with Secretary of State February 19, 2002.]

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

SECTION 1. Section 13102 of the Elections Code is amended to read:

13102. (a) All voting shall be by ballot. There shall be provided, at each polling place, at each election at which public officers are to be
voted for, but one form of ballot for all candidates for public office, except that, for partisan primary elections, one form of ballot shall be provided for each qualified political party as well as one form of nonpartisan ballot, in accordance with subdivision (b).

(b) At partisan primary elections, each voter not registered as intending to affiliate with any one of the political parties participating in the election shall be furnished only a nonpartisan ballot, unless he or she requests a ballot of a political party and that political party, by party rule duly noticed to the Secretary of State, authorizes a person who has declined to state a party affiliation to vote the ballot of that political party. The nonpartisan ballot shall contain only the names of all candidates for nonpartisan offices and measures to be voted for at the primary election. Each voter registered as intending to affiliate with a political party participating in the election shall be furnished only a ballot of the political party with which he or she is registered and the nonpartisan ballot, both of which shall be printed together as one ballot in the form prescribed by Section 13207.

(c) A political party may adopt a party rule in accordance with subdivision (b) that authorizes a person who has declined to state a party affiliation to vote the ballot of that political party at the next ensuing partisan primary election. The political party shall notify the party chairman immediately upon adoption of that party rule. The party chairman shall provide written notice of the adoption of that rule to the Secretary of State not later than the 135th day prior to the partisan primary election at which the vote is authorized.

(d) This section shall remain in effect only until March 6, 2002, and as of that date is repealed.

SEC. 2. Section 13102 is added to the Elections Code, to read:

13102. (a) All voting shall be by ballot. There shall be provided, at each polling place, at each election at which public officers are to be voted for, but one form of ballot for all candidates for public office, except that, for partisan primary elections, one form of ballot shall be provided for each qualified political party as well as one form of nonpartisan ballot, in accordance with subdivision (b).

(b) At partisan primary elections, each voter not registered as intending to affiliate with any one of the political parties participating in the election shall be furnished only a nonpartisan ballot, unless he or she requests a ballot of a political party and that political party, by party rule duly noticed to the Secretary of State, authorizes a person who has declined to state a party affiliation to vote the ballot of that political party. The nonpartisan ballot shall contain only the names of all candidates for nonpartisan offices and measures to be voted for at the primary election. Each voter registered as intending to affiliate with a political party participating in the election shall be furnished only a ballot of the
political party with which he or she is registered and the nonpartisan ballot, both of which shall be printed together as one ballot in the form prescribed by Section 13207.

c) A political party may adopt a party rule in accordance with subdivision (b) that authorizes a person who has declined to state a party affiliation to vote the ballot of that political party at the next ensuing partisan primary election. The political party shall notify the party chairman immediately upon adoption of that party rule. The party chairman shall provide written notice of the adoption of that rule to the Secretary of State not later than the 135th day prior to the partisan primary election at which the vote is authorized.

d) The county elections official shall maintain a record of which political party’s ballot was requested pursuant to subdivision (b), or whether a nonpartisan ballot was requested, by each person who declined to state a party affiliation. The record shall be made available to any person or committee who is authorized to receive copies of the printed indexes of registration for primary and general elections pursuant to Section 2184.

e) This section shall become operative on March 6, 2002.

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

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 allow sufficient time to develop procedures for gathering the data as proposed by this bill during the next general election and thereafter, it is necessary that this act take effect immediately.

CHAPTER 11

An act to amend Section 8152 of the Education Code, relating to apprenticeships.

[Approved by Governor March 11, 2002. Filed with Secretary of State March 11, 2002.]
The people of the State of California do enact as follows:

SECTION 1. Section 8152 of the Education Code is amended to read:

8152. (a) The reimbursement rate shall be established in the annual Budget Act and the rate shall be commonly applied to all providers of instruction specified in subdivision (d).

(b) For the purposes of this section, each hour of teaching time may include up to 10 minutes of passing time and breaks.

(c) This section also applies to isolated apprentices, as defined in Section 3074 of the Labor Code, for which alternative methods of instruction are provided.

(d) The Superintendent of Public Instruction or the Chancellor of the California Community Colleges, whichever is appropriate, shall make the reimbursements specified in this section for teaching time provided by high schools, unified school districts, regional occupational centers or programs, community colleges, or adult schools.

(e) Reimbursements may be made under this section for related and supplemental instruction provided to indentured apprentices only if the instruction is provided by a program approved by the Division of Apprenticeship Standards in the Department of Industrial Relations in accordance with Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.

CHAPTER 12

An act to add Chapter 7 (commencing with Section 52075) to Part 5 of Division 31 of the Health and Safety Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 11, 2002. Filed with Secretary of State March 11, 2002.]

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

SECTION 1. Chapter 7 (commencing with Section 52075) is added to Part 5 of Division 31 of the Health and Safety Code, to read:
52075. (a) Subject to the limitations of this chapter, any city or county may, in addition to any other power conferred by this part, issue revenue bonds as provided in Chapter 4 (commencing with Section 52030) for the purpose of financing the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing and for the provision of capital improvements in connection with and determined necessary to that multifamily rental housing.

(b) For this purpose, the term "home mortgage," as used in Chapter 4 (commencing with Section 52030), and as defined by Section 52013, shall be further defined to include construction loans and mortgage loans to housing sponsors to finance the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing and for the provision of capital improvements in connection with and determined necessary to the multifamily rental housing.

(c) To the extent possible, Chapter 4 (commencing with Section 52030) shall be construed in a manner that enables a city or county to comply with the purpose and requirements of this chapter.

52075.1. As used in this chapter "city or county" include any city and county.

52076. Subject to the limitations prescribed in this chapter, a city or county may make, or undertake commitments to make, construction loans and mortgage loans to housing sponsors to finance the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing. For this purpose, the city or county shall enter into regulatory contracts and other agreements with housing sponsors receiving loans under this chapter to assure all requirements of this chapter are satisfied.

52077. Subject to the limitations prescribed in this chapter, a city or county may purchase, or undertake, directly or indirectly through lending institutions, commitments to purchase, construction loans and mortgage loans originated in accordance with a financing agreement with the city or county to finance the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing and may make loans to lending institutions under terms and conditions which, in addition to other provisions determined by the city or county, shall require the lending institutions to use the net proceeds of the loans for the making, directly or indirectly, of construction loans or mortgage loans to finance the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing.
52078. For the purposes of this chapter, a city or county shall have the power to issue its bonds to defray, in whole or in part, the costs of studies and surveys, insurance premiums, underwriting fees, legal, accounting, and marketing services incurred in connection with the issuance and sale of bonds, including bond and mortgage reserve accounts; trustee, custodian, and rating agency fees, and any other costs which are reasonably related to the foregoing.

52079. A city or county may, in conjunction with the financing of multifamily rental housing pursuant to this chapter, finance the acquisition, construction, rehabilitation, refinancing, or development of commercial property for lease, subject to all of the following conditions:
   (a) No more than 10 percent of the proceeds of any revenue bonds issued pursuant to this chapter may be used to develop the commercial property for lease.
   (b) The commercial property developed will be located on the same parcel or on a parcel adjacent to a multifamily rental housing development.
   (c) As a condition of the financing, any lease payments collected in excess of payments necessary for debt service, operating expenses and any required reserves related to that property, shall be used to reduce rents on units reserved for occupancy by lower income households and very low income households in a multifamily rental housing development.

52080. (a) (1) A multifamily rental housing development financed, or for which financing has been extended or committed pursuant to this chapter from the proceeds of sale of each bond issue, shall at all times during the qualified project period meet the requirement of subparagraph (A) or (B), whichever is elected by the issuer at the time of issuance of the issue for each development:
   (A) Twenty percent or more of the residential units in the development shall be occupied by individuals whose income is 50 percent or less of area median income.
   (B) Forty percent or more of the residential units in the development shall be occupied by individuals whose income is 60 percent or less of area median income.

   As used in this section, “qualified project period,” “income,” and “area median income” shall have the meanings specified in, and shall be determined in accordance with the provisions of, subsection (d) of Section 142 of the Internal Revenue Code of 1986, as amended, and United States Treasury regulations and rulings promulgated pursuant thereto.

   With respect to a development for which the issuer has elected to meet the requirement of subparagraph (A), the rental payments paid by the occupants of the units meeting the requirement of subparagraph (A)
(excluding any supplemental rental assistance from the state, the federal government, or any other public agency to those occupants or on behalf of those units) shall not exceed 30 percent of 50 percent of area median income. With respect to a development for which the issuer has elected to meet the requirement of subparagraph (B), the rental payments paid by the occupants of the units meeting the requirement of subparagraph (B) (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to those occupants or on behalf of those units) shall not exceed 30 percent of 60 percent of area median income.

(2) The governing body shall ensure that the local agency issuing permits for the acquisition, construction, rehabilitation, refinancing, or development of the multifamily rental housing development shall consider opportunities to contribute to the economic feasibility of the units and to the provision of units for very low income households through concessions and inducements including, but not limited to, the following:

(A) Reductions in construction and design requirements.
(B) Reductions in setback and square footage requirements and the ratio of vehicular parking spaces that would otherwise be required.
(C) Granting density bonuses.
(D) Providing expedited processing of permits.
(E) Modifying zoning code requirements to allow mixed use zoning.
(F) Reducing or eliminating fees and charges for filing and processing applications, petitions, permits, planning services, water and sewer connections, and other fees and charges.
(G) Reducing or eliminating requirements relating to monetary exactions, dedications, reservations of land, or construction of public facilities.
(H) Other financial incentives or concessions for the multifamily rental housing development which result in identifiable cost reductions, as determined by the governing body. The governing body shall ensure that the local agency issuing permits for the development considers its responsibilities under this section and makes a good faith effort to enhance the feasibility of the project and to provide housing for lower income households and very low income households.

(3) The governing body shall not permit a selection criteria to be applied to certificate holders under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f) that is more burdensome than the criteria applied to all other prospective tenants.

(4) It is the intent of the Legislature that the governing body finance projects that assist in meeting the urgent need for providing shelter for lower income households, very low income households, and persons and families of low or moderate income. To that end, the quality of materials
and the amenities provided should not be excessive so as to hinder the prospect of achieving the stated goal.

(5) It is the intent of the Legislature that the governing body finance projects that assist in meeting the urgent need for providing housing for families. To that end, developments with three- and four-bedroom units affordable to larger families shall have priority over competing developments.

(b) As a condition of financing pursuant to this chapter, the housing sponsor shall enter into a regulatory agreement with the city or county providing that units reserved for occupancy by lower income households remain available on a priority basis for occupancy until the bonds are retired. As a condition of financing provided by bonds issued on or after January 1, 1991, the housing sponsor shall enter into a regulatory agreement with the city or county providing that units reserved for occupancy by lower income households remain available on a priority basis for occupancy for the qualified project period. The regulatory agreement shall contain a provision making the covenants and conditions of the agreement binding upon successors in interest of the housing sponsor. The regulatory agreement shall be recorded in the office of the county recorder of the county in which the multifamily rental housing development is located. The regulatory agreement shall be recorded in the grantor-grantee index to the name of the property owner as grantor and to the name of the city or county as grantee.

(c) The governing body shall ensure that units occupied by lower income households are of comparable quality and offer a range of sizes and number of bedrooms comparable to the units that are available to other tenants.

(d) (1) The city or county shall give priority to processing construction loans and mortgage loans or may take other steps such as reducing loan fees or other local fees for multifamily rental developments which incorporate innovative and energy-efficient techniques that reduce development or operating costs and that have the lowest feasible per unit cost, as determined by the city or county, based on efficiency of design or the elimination of improvements that are not required by applicable building standards.

(2) The city or county shall give equal priority to processing construction loans and mortgage loans or may take other steps such as reducing loan fees or other local fees on multifamily rental housing developments that do any of the following:
   (A) Utilize federal housing or development assistance.
   (B) Utilize redevelopment funds or other local financial assistance, including, but not limited to, contributions of land.
   (C) Are sponsored by a nonprofit housing organization.
(D) Provide a significant number of housing units, as determined by the city or county, as part of a coordinated jobs and housing plan adopted by the city or county.

(E) Exceeds the ratios specified in subparagraph (A) or (B) of paragraph (1) of subdivision (a) or restricts the occupancy for these units for the longest period beyond the required minimum number of years.

(e) (1) New and existing rental housing developments may be syndicated after prior written approval of the governing body. The governing body shall grant that approval only after the city or county determines that the terms and conditions of the syndication comply with this section.

(2) The terms and conditions of the syndication shall not reduce or limit any of the requirements of this chapter or regulations adopted or documents executed pursuant to this chapter. No requirements of the city or county shall be subordinated to the syndication agreement. A syndication shall not result in the provision of fewer assisted units, or the reduction of any benefits or services, than were in existence prior to the syndication agreement.

(f) At the option of the city or county, the amendments to this subdivision made by Chapter 907 of the Statutes of 1983 may be made applicable to any multifamily rental housing development financed by the issuance, on or after September 3, 1982, of bonds authorized by this chapter.

(g) Following the expiration or termination of the qualified project period, except in the event of foreclosure and redemption of the bonds, deed in lieu of foreclosure, eminent domain, or action of a federal agency preventing enforcement, units required to be reserved for occupancy pursuant to subdivision (a) and financed with proceeds of bonds issued on or after January 1, 1991, shall remain available to any eligible household occupying a reserved unit at the date of expiration or termination, at a rent not greater than the amount set forth by subdivision (a), until the earliest of any of the following occur:

(1) The household’s income exceeds 140 percent of the maximum eligible income specified in subdivision (a).

(2) The household voluntarily moves or is evicted for “good cause.” “Good cause” for the purposes of this section, means the nonpayment of rent or allegation of facts necessary to prove major, or repeated minor, violations of material provisions of the occupancy agreement which detrimentally affect the health and safety of other persons or the structure, the fiscal integrity of the development, or the purposes or special programs of the development.

(3) Thirty years after the date of the commencement of the qualified project period.
(4) The sponsor pays the relocation assistance and benefits to tenants as provided in subdivision (b) of Section 7264 of the Government Code.

(h) During the three years prior to expiration of the qualified project period, the sponsor shall continue to make available to eligible households reserved units that have been vacated to the same extent that nonreserved units are made available to noneligible households.

(i) This section shall not be construed to require a city or county to monitor the sponsor’s compliance with the provisions of subdivision (g).

(j) The requirements of subdivisions (g) to (i), inclusive, shall be contained in a regulatory agreement required pursuant to subdivision (b).

(k) Notwithstanding Section 1461 of the Civil Code, the provisions of this section shall run with the land and may be enforced either in law or in equity by any resident, local agency, entity, or by any other person adversely affected by an owner’s failure to comply with this section.

52080.5. (a) (1) When refunding revenue bonds for multifamily housing which were previously issued pursuant to Section 52080, the city, county, or city and county shall ensure that rental units required, by this chapter or by applicable federal law at the time the original bonds were issued, to be reserved for occupancy for low- and very low income households shall remain occupied by, or made available to, those persons at least until the later of the following:

(A) The date originally so required.

(B) As long as any bonds remain outstanding with respect to the development.

(2) For bonds previously issued to finance a development where all of the units, other than management units, are, at the time of the refunding, subsidized by a housing assistance payments contract for new construction and substantial rehabilitation pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f), subparagraph (B) of paragraph (1) shall refer to a period of time until the termination of the contract.

(b) The city, county, or city and county may determine that the period set forth in paragraph (1) of subdivision (a) shall not apply to the refunding of previously issued revenue bonds for which there is a mandatory redemption or acceleration as a result of default under the terms of the existing loan agreement or other security documents.

52081. For purposes of this article, “housing sponsor” means a person as defined in Section 52016.

52085. The primary purpose of this chapter is to meet the multifamily rental housing needs of persons and families of low or moderate income. The exercise of the powers granted by this division shall be in all respects for the benefit of the people of this state and for their health and welfare. Therefore, any bonds issued by a city, county,
or city and county pursuant to this chapter, their transfer, and the income therefrom shall at all times be free from taxation by the state or any political subdivision or other instrumentality of the state, excepting inheritance and gift taxes.

52086. Two or more cities in the same county, or a county and one or more cities within the county, or two or more counties, may enter into an agreement to join or cooperate with one another in the exercise jointly, or otherwise, of any or all of their powers for the purpose of financing multifamily rental housing development pursuant to this chapter.

52087. The same notice requirements specified in Section 65863.10 of the Government Code shall apply to multifamily rental housing that receives financial assistance pursuant to this chapter.

Article 2. State Assistance

52090. This article constitutes an alternative method for cities and counties to issue bonds for making construction loans and mortgage loans for multifamily rental housing developments pursuant to the provisions of this chapter.

52090.5. The agency and any city or county may enter into an agreement which provides that the agency may sell bonds authorized pursuant to Chapter 4 (commencing with Section 52030) for the city or county and operate a program with the proceeds of the sale for the purpose of providing funds for construction loans and mortgage loans for multifamily rental housing developments within the city or county and for the provision of capital improvements in connection with and determined necessary to the multifamily rental housing.

52091. Any agreement made pursuant to Section 52090.5 shall contain all of the following provisions:

(a) Limitations on the maximum amount of bonds to be issued by a city or county.

(b) A requirement that all bonds and any prospectus in connection with the bonds contain a legend condition to the following effect: "Neither the faith and credit of the State of California or the agency nor the taxing power of the state is pledged to the payment of principal or interest on this bond."

(c) A requirement that the agency approve the bond counsel selected by the city or county.

(d) The designation of criteria for multifamily rental housing developments eligible for financing; the number of units which shall be available for occupancy by persons of low income, which shall not be less than 20 percent of the total units; the amount to be allocated to a bond reserve fund; and, any other matters which the agency finds necessary or desirable.
(e) That the agency shall make construction loans and mortgage loans for multifamily rental housing developed within the city or county.

(f) That the agency shall supervise all construction and management of multifamily rental housing developments financed pursuant to this chapter on behalf of the city or county, and with the same powers and duties under this chapter, to ensure that all requirements of this part are met.

52091.5. Bonds issued pursuant to this article shall not be deemed bonds of the agency for the purposes of any limitations contained in Section 51350.

52092. The agency shall adopt uniform regulations for administration of local programs under this article. Local programs conducted by the agency under this article shall be administered in a manner consistent with this chapter.

Article 3. Miscellaneous

52095. Whenever a complaint is received concerning a violation of the restrictions imposed pursuant to Section 52080, the city or county shall investigate promptly and make a report to the complaining party on whether the violation existed and whether it persists, and if it persists, what action the city or county will take to remedy the violation. When the city or county determines that a violation exists, whether determined upon an investigation of a complaint or on its own motion, the city or county shall take all appropriate action, including necessary legal action, to promptly eliminate the violation.

Notwithstanding any provision of this section, any person aggrieved by a violation may seek a judicial remedy without regard to whether a complaint has been made to the city or county or whether the city or county is then taking any action to remedy the violation.

Article 4. Application to Chartered Cities

52097. Except as otherwise provided in this article, this chapter shall not be construed to limit or otherwise restrict the authority of chartered cities to issue bonds for the purpose of financing the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing or for the provision of capital improvements in connection with and determined necessary to that multifamily rental housing. For purposes of this article, certificates of participation in any form of obligation of a city, county, or city and county shall be considered to be bonds.

52097.1. The maximum aggregate amount of bonds that may be issued pursuant to this chapter, charter provision, or ordinance for the
purposes specified in Section 52097 shall not exceed two billion two hundred fifty million dollars ($2,250,000,000) in any calendar year.

52097.5. (a) Multifamily rental housing development financed, or for which financing has been extended or committed, pursuant to this chapter from the proceeds of sale of each bond issue shall at all times during the qualified project period meet the requirement of paragraph (1) or (2), whichever is elected by the issuer at the time of issuance of the issue for each development:

(1) Twenty percent or more of the residential units in the development shall be occupied by individuals whose income is 50 percent or less of area median income.

(2) Forty percent or more of the residential units in the development shall be occupied by individuals whose income is 60 percent or less of area median income.

As used in this subdivision, “qualified project period,” “income,” and “area median income” shall have the meanings specified in, and shall be determined in accordance with the provisions of, subsection (d) of Section 142 of the Internal Revenue Code of 1986, as amended, and United States Treasury regulations and rulings promulgated pursuant thereto.

(b) With respect to a development for which the issuer has elected to meet the requirement of paragraph (1) of subdivision (a), the rental payments paid by the occupants of the units meeting the requirement of paragraph (1) of subdivision (a) (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to those occupants or on behalf of those units) shall not exceed 30 percent of 50 percent of area median income.

(c) With respect to a development for which the issuer has elected to meet the requirement of paragraph (2) of subdivision (a), the rental payments paid by the occupants of the units meeting the requirement of paragraph (2) of subdivision (a) (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to those occupants or on behalf of those units) shall not exceed 30 percent of 60 percent of area median income.

52098. Each city, county, and city and county that has issued bonds pursuant to this chapter or a charter provision or ordinance for the purposes specified in Section 52097 shall file a report annually, on or before March 1, with the Governor, the Legislature, and the department, which report shall include all of the following information:

(a) The total amount of bonds issued by the city, county, or city and county pursuant to this chapter or another authority.

(b) The total number of units in multifamily rental housing developments financed pursuant to this chapter or another authority.
(c) The total number of units in multifamily rental housing developments reserved for occupancy on a priority basis for lower income households.

(d) The total number of units, if any, in a multifamily rental housing development reserved for occupancy on a priority basis for very low income households.

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:

A number of affordable multifamily housing developments that are currently being processed would be adversely affected by the failure of the Legislature to reinstate the Multifamily Housing Program.

CHAPTER 13

An act to amend Section 11106 of the Health and Safety Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 21, 2002. Filed with Secretary of State March 21, 2002.]

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

SECTION 1. Section 11106 of the Health and Safety Code is amended to read:

11106. (a) (1) (A) Any manufacturer, wholesaler, retailer, or any other person or business entity in this state who sells, transfers, or otherwise furnishes any substance specified in subdivision (a) of Section 11100 to a person or business entity in this state or any other state or who obtains from a source outside of the state any substance specified in subdivision (a) of Section 11100 on or after January 1, 2002, shall submit an application to, and obtain a permit for the conduct of that business from, the Department of Justice. For any substance added to the list set forth in subdivision (a) of Section 11100 on or after January 1, 2002, the Department of Justice may postpone the effective date of the requirement for a permit for a period not to exceed six months from the listing date of the substance.

(B) An intracompany transfer does not require a permit if the transferor is a permittee. Transfers between company partners or between a company and an analytical laboratory do not require a permit if the transferor is a permittee and a report as to the nature and extent of
the transfer is made to the Department of Justice pursuant to Section 11100 or 11100.1.

(C) This paragraph shall not apply to any manufacturer, wholesaler, retailer, or other person who is licensed by either the State Department of Health Services or the California State Board of Pharmacy, and is also registered with the federal Drug Enforcement Administration of the United States Department of Justice.

(2) Except as provided in paragraph (3), no permit shall be required of any manufacturer, wholesaler, retailer, or other person for the sale, transfer, furnishing, or obtaining of any product which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine and which is lawfully sold, transferred, or furnished over the counter without a prescription or by a prescription pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.) or regulations adopted thereunder.

(3) A permit shall be required for the sale, transfer, furnishing, or obtaining of preparations in solid or liquid dosage form containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine, unless (A) the transaction involves the sale of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products by retail distributors as defined by this article over the counter and without a prescription, or (B) the transaction is made by a person or business entity exempted from the permitting requirements of this subdivision under paragraph (1).

(b) (1) The department shall provide application forms, which are to be completed under penalty of perjury, in order to obtain information relating to the identity of any applicant applying for a permit, including, but not limited to, the business name of the applicant or the individual name, and if a corporate entity, the names of its board of directors, the business in which the applicant is engaged, the business address of the applicant, a full description of any substance to be sold, transferred, or otherwise furnished or to be obtained, the specific purpose for the use, sale, or transfer of those substances specified in subdivision (a) of Section 11100, the training, experience, or education relating to this use, and any additional information requested by the department relating to possible grounds for denial as set forth in this section, or by applicable regulations adopted by the department.

(2) The requirement for the specific purpose for the use, sale, or transfer of those substances specified in subdivision (a) of Section 11100 does not require an applicant or permittee to reveal their chemical processes that are typically considered trade secrets and proprietary business information.

(c) Applicants and permittees shall authorize the department, or any of its duly authorized representatives, as a condition of being permitted,
to make any examination of the books and records of any applicant, permittee, or other person, or visit and inspect the business premises of any applicant or permittee during normal business hours, as deemed necessary to enforce this chapter.

(d) An application may be denied, or a permit may be revoked or suspended, for reasons which include, but are not limited to, the following:

(1) Materially falsifying an application for a permit or an application for the renewal of a permit.

(2) If any individual owner, manager, agent, representative, or employee for the applicant who has direct access, management, or control for any substance listed under subdivision (a) of Section 11100, is or has been convicted of a misdemeanor or felony relating to any of the substances listed under subdivision (a) of Section 11100, any misdemeanor drug-related offense, or any felony under the laws of this state or the United States.

(3) Failure to maintain effective controls against the diversion of precursors to unauthorized persons or entities.

(4) Failure to comply with this article or any regulations of the department adopted thereunder.

(5) Failure to provide the department, or any duly authorized federal or state official, with access to any place for which a permit has been issued, or for which an application for a permit has been submitted, in the course of conducting a site investigation, inspection, or audit; or failure to promptly produce for the official conducting the site investigation, inspection, or audit any book, record, or document requested by the official.

(6) Failure to provide adequate documentation of a legitimate business purpose involving the applicant’s or permittee’s use of any substance listed in subdivision (a) of Section 11100.

(7) Commission of any act which would demonstrate actual or potential unfitness to hold a permit in light of the public safety and welfare, which act is substantially related to the qualifications, functions, or duties of a permitholder.

(8) If any individual owner, manager, agent, representative, or employee for the applicant who has direct access, management, or control for any substance listed under subdivision (a) of Section 11100, willfully violates or has been convicted of violating, any federal, state, or local criminal statute, rule, or ordinance regulating the manufacture, maintenance, disposal, sale, transfer, or furnishing of any of those substances.

(e) Notwithstanding any other provision of law, an investigation of an individual applicant’s qualifications, or the qualifications of an applicant’s owner, manager, agent, representative, or employee who has
direct access, management, or control of any substance listed under subdivision (a) of Section 11100, for a permit may include review of his or her summary criminal history information pursuant to Sections 11105 and 13300 of the Penal Code, including, but not limited to, records of convictions, regardless of whether those convictions have been expunged pursuant to Section 1204.5 of the Penal Code, and any arrests pending adjudication.

(f) The department may retain jurisdiction of a canceled or expired permit in order to proceed with any investigation or disciplinary action relating to a permittee.

(g) The department may grant permits on forms prescribed by it, which shall be effective for not more than one year from the date of issuance and which shall not be transferable. Applications and permits shall be uniform throughout the state, on forms prescribed by the department.

(h) Each applicant shall pay at the time of filing an application for a permit a fee determined by the department which shall not exceed the application processing costs of the department.

(i) A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, following the timely filing of a complete renewal application with all supporting documents, the payment of a permit renewal fee not to exceed the application processing costs of the department, and a review of the application by the department.

(j) Selling, transferring, or otherwise furnishing or obtaining any substance specified in subdivision (a) of Section 11100 without a permit is a misdemeanor or a felony.

(k) (1) No person under 18 years of age shall be eligible for a permit under this section.

(2) No business for which a permit has been issued shall employ a person under 18 years of age in the capacity of a manager, agent, or representative.

(l) (1) An applicant, or an applicant’s employees who have direct access, management, or control of any substance listed under subdivision (a) of Section 11100, for an initial permit shall submit with the application two sets of 10-print fingerprint cards for each individual acting in the capacity of an owner, manager, agent, or representative for the applicant, unless the applicant’s employees are exempted from this requirement by the Department of Justice. These exemptions may only be obtained upon the written request of the applicant.

(2) In the event of subsequent changes in ownership, management, or employment, the permittee shall notify the department in writing within 15 calendar days of the changes, and shall submit two sets of 10-print
fingerprint cards for each individual not previously fingerprinted under this section.

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

To ensure fundamental fairness to those permittees and other businesses and individuals who have been legally conducting business with respect to specified substances prior to their inclusion in a list of substances for which a permit to conduct business must be first obtained, this act must go into immediate effect. Furthermore, because the enactment of this bill would afford the Department of Justice the authority to allow for a transition period to ensure that all affected parties are provided with proper notice of statutory changes that may entail criminal liability; provide the Department of Justice with the time needed to process applications in a timely manner; and as a result ensure that there would be no disruption in commerce or adverse business impact, this bill must go into immediate effect.

CHAPTER 14

An act to amend Section 22901.1 of, to add Section 22901.3 to, and to add and repeal Section 22901.2 of, the Education Code, and to amend Sections 20677, 20683, and 20687 of, to add Section 20677.4 to, and to add and repeal Section 20683.3 of, the Government Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 21, 2002. Filed with Secretary of State March 21, 2002.]

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

SECTION 1. The Legislature finds and declares that the purpose of this act is to approve agreements pursuant to Section 3517 of the Government Code entered into by the state employer and Bargaining Unit 1, California State Employees Association, Administrative, Financial and Staff Services; Bargaining Unit 3, California State Employees Association, Education and Library; Bargaining Unit 4, California State Employees Association, Engineering and Scientific Technicians; Bargaining Unit 15, California State Employees
SEC. 2. The provisions of the memoranda of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and the bargaining units as defined in Section 1, and that require the expenditure of funds or legislative action to permit their implementation, are hereby approved for the purposes of Section 3517.6 of the Government Code.

SEC. 3. The provisions of the memoranda of understanding approved by Section 2 of this act that are scheduled to take effect on or after July 1, 2001, and that require the expenditure of funds, shall not take effect unless funds for these provisions are specifically appropriated by the Legislature. In the event that funds for these provisions are not specifically appropriated by the Legislature, the state employer and the affected employee organization shall meet and confer to renegotiate the affected provisions.

SEC. 4. Notwithstanding Section 3517.6 of the Government Code, the provisions of any memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.

SEC. 5. Section 22901.1 of the Education Code is amended to read:

22901.1. (a) Notwithstanding any provisions of Section 22901 to the contrary, the normal rate of contribution shall be the rate specified in this section for all of the following:

(1) Members of the Defined Benefit Program in State Bargaining Units 10, 12, 16, 18, and 19.

(2) Members of the Defined Benefit Program who are employed by the state and excepted from the definition of “state employee” in subdivision (c) of Section 3513 of the Government Code.

(3) Members of the Defined Benefit Program who are officers or employees of the executive branch of state government who are not members of the civil service.

(b) (1) Subject to the provisions of subdivision (d), from August 31, 2001, to June 30, 2002, inclusive, each member described in subdivision (a) shall contribute to the retirement fund an amount equivalent to 5.5 percent of the member’s creditable compensation.

(2) Subject to the provisions of subdivision (d), from July 1, 2002, to June 30, 2003, inclusive, each member described in subdivision (a) shall contribute to the retirement fund an amount equivalent to 3 percent of the member’s creditable compensation.

(3) Notwithstanding Section 22905, 25 percent of the amount contributed by a member pursuant to this section shall be credited to the
member’s Defined Benefit Supplement account pursuant to Section 25004.

(c) This section does not apply to members employed by the California State University or the University of California.

(d) This subdivision shall apply to state employees in State Bargaining Units 10, 12, 16, 18, and 19. If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

(e) This section shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute that is enacted before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 6. Section 22901.2 is added to the Education Code, to read:

22901.2. (a) Notwithstanding any provision of Section 22901 to the contrary, the normal rate of contribution shall be the rate specified in this section for members of the Defined Benefit Program in State Bargaining Unit 3 or 21.

(b) (1) From January 1, 2002, to June 30, 2002, inclusive, each member described in subdivision (a) shall contribute to the retirement fund an amount equivalent to 5.5 percent of the member’s creditable compensation.

(2) From July 1, 2002, to June 30, 2003, inclusive, each member described in subdivision (a) shall contribute to the retirement fund an amount equivalent to 3 percent of the member’s creditable compensation.

(3) Notwithstanding Section 22905, 25 percent of the amount contributed by the member pursuant to this section shall be credited to the member’s Defined Benefit Supplement account pursuant to Section 25004.

(c) This section does not apply to members employed by the California State University or the University of California.

(d) This subdivision shall apply to state employees in State Bargaining Unit 3 or 21. If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.
(e) This section shall become inoperative on July 1, 2003, and as of January 1, 2004, is repealed, unless a later enacted statute that is enacted before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 22901.3 is added to the Education Code, to read:

22901.3. (a) Notwithstanding Section 22901, the normal rate of contribution for a "state employee," as defined in subdivision (c) of Section 3513 of the Government Code, who is a member of the Defined Benefit Program, may be established by a memorandum of understanding reached pursuant to Section 3517.5 of the Government Code. The memorandum of understanding shall be controlling without further legislative action, except that if the provisions of the memorandum of understanding require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

(b) The Director of the Department of Personnel Administration may establish the normal rate of contribution for a state employee who is a member of the Defined Benefit Program who is excepted from the definition of "state employee" in subdivision (c) of Section 3513 of the Government Code, and an officer or employee of the executive branch of state government who is not a member of the civil service. The normal rate of contribution shall be the same for all members identified in this subdivision. The contribution rate shall be effective the beginning of the pay period indicated by the Director of the Department of Personnel Administration but shall be no earlier than the beginning of the pay period following the date the board receives notification.

SEC. 8. Section 20677 of the Government Code is amended to read:

20677. (a) (1) The normal rate of contribution for a state miscellaneous member employed by the California State University, the University, the legislative, or the judicial branch whose service is not included in the federal system shall be 6 percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid that member for service rendered on and after July 1, 1976.

(2) The normal rate of contribution for a school member or a local miscellaneous member shall be 7 percent of the compensation paid that member for service rendered on and after June 21, 1971.

(3) Notwithstanding paragraph (2), the normal rate of contribution for a local miscellaneous member subject to Section 21354.3, 21354.4, or 21354.5 shall be 8 percent of the compensation paid that member for service rendered on and after the date the member’s contracting agency elects to be subject to that section.

(4) The normal rate of contribution as established under this subdivision for a local miscellaneous or school member whose service is included in the federal system, and whose service retirement
allowance is reduced under Section 21353, 21354, 21354.1, 21354.3, 21354.4, or 21354.5 because of that inclusion, shall be reduced by one-third as applied to compensation not exceeding four hundred dollars ($400) per month for service after the date of execution of the agreement including service in the federal system and prior to termination of the agreement with respect to the coverage group to which he or she belongs. Notwithstanding the foregoing, effective January 1, 2001, the normal rate of contribution for school members whose service is included in the federal system shall not be reduced pursuant to this paragraph as applied to compensation earned on or after that date.

(b) (1) The normal rate of contribution for a state miscellaneous member employed by the California State University, the University, the legislative, or the judicial branch whose service has been included in the federal system shall be 5 percent of compensation in excess of five hundred thirteen dollars ($513) per month paid that member for service rendered on and after July 1, 1976.

(2) The normal rate of contribution for a state miscellaneous or industrial member employed by the California State University, the University, the legislative, or the judicial branch, who has elected to be subject to Section 21353.5 and whose service has been included in the federal system, shall be 5 percent of compensation, subject to the reduction specified in paragraph (5) of subdivision (a).

SEC. 9. Section 20677.4 is added to the Government Code, to read:

20677.4. (a) (1) The normal rate of contribution for a state miscellaneous or state industrial member whose service is not included in the federal system shall be 6 percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid to that member for service rendered on or after July 1, 1976.

(2) The normal rate of contribution for a state miscellaneous or state industrial member, who has elected to be subject to Section 21353.5 and whose service is not included in the federal system, shall be 6 percent of the member’s compensation.

(3) The normal rate of contribution as established under this subdivision for a member whose service is included in the federal system, and whose service retirement allowance is reduced under Section 21354.1, because of that inclusion, shall be reduced by one-third as applied to compensation not exceeding four hundred dollars ($400) per month for service after the date of execution of the agreement including service in the federal system and prior to termination of the agreement with respect to the coverage group to which he or she belongs.

(b) The normal rate of contributions for a state miscellaneous or state industrial member whose service has been included in the federal system shall be 5 percent of compensation in excess of five hundred thirteen
dollars ($513) per month paid that member for service rendered on or after July 1, 1976.

(c) The normal rate of contribution for a state miscellaneous or state industrial member who is subject to Section 21076 or 21077 shall be 0 percent.

(d) A member who elected to become subject to Section 21353 solely for service rendered on or after the effective date of the election, as authorized by subdivision (c) of Section 21070 during the period between November 1, 1988, and October 31, 1989, is not required to make the contributions specified in Section 21073.

(e) A member who elects to become subject to Section 21354.1, as applicable, shall contribute at the rate specified in paragraph (1) of subdivision (a) or paragraph (1) of subdivision (b), as determined by the member’s status with the federal system, and the rate shall be applied from the first of the month following the date of the election. A member who makes the election shall also contribute for service prior to the date the contribution rate was applied, in the manner specified in Section 21073 or 21073.1, as applicable.

(f) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless and until approved by the Legislature in the annual Budget Act.

(g) The Director of the Department of Personnel Administration may establish the normal rate of contribution for a state employee who is excepted from the definition of “state employee” in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service. The normal rate of contribution shall be the same for all members identified in this subdivision. The contribution rate shall be effective the beginning of the pay period indicated by the Director of the Department of Personnel Administration but shall be no earlier than the beginning of the pay period following the date the board receives notification.

SEC. 10. Section 20683 of the Government Code is amended to read:

20683. (a) For each state member subject to Section 21369 or 21369.1, the normal rate of contribution shall be 6 percent of compensation in excess of three hundred seventeen dollars ($317) per month paid to a member whose service is not included in the federal system or in excess of five hundred thirteen dollars ($513) for one whose service is included in the federal system. If the provisions of this section are in conflict with the provisions of a memorandum of understanding
reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of the memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(b) The Director of the Department of Personnel Administration may establish the normal rate of contribution for a state employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service. The normal rate of contribution shall be the same for all members identified in this subdivision. The contribution rate shall be effective the beginning of the pay period indicated by the Director of the Department of Personnel Administration but shall be no earlier than the beginning of the pay period following the date the board receives notification.

(c) For each local safety member subject to Section 21369, the normal rate of contribution shall be 7 percent of compensation.

(d) The normal rate of contribution as established under this section for a local member whose service is included in the federal system and whose retirement allowance is reduced because of that inclusion shall be reduced by one-third as applied to compensation not exceeding four hundred dollars ($400) per month for service rendered after the date of execution of the modification of the federal-state agreement including those services in the federal system and prior to termination of his or her coverage under the federal system.

(e) The operative date of this section with respect to a local safety member shall be the date upon which he or she becomes subject to Section 21369.

SEC. 11. Section 20683.3 is added to the Government Code, to read:

20683.3. (a) Notwithstanding any provisions of Section 20683 to the contrary, the normal rate of contribution for state safety members subject to Section 21369.1 in State Bargaining Unit 1, 3, 4, 11, or 15 shall be the rate specified in this section.

(b) (1) From January 1, 2002, to June 30, 2002, inclusive, the normal rate of contribution for a member described in subdivision (a) whose service is not included in the federal system shall be 3.5 percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid to that member for service rendered.

(2) From July 1, 2002, to June 30, 2003, inclusive, the normal rate of contribution for a member described in subdivision (a) whose service is not included in the federal system shall be 1 percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid to that member for service rendered.
(3) From January 1, 2002, to June 30, 2002, inclusive, the normal rate of contribution for a member described in subdivision (a) whose service is included in the federal system shall be 3.5 percent of the compensation in excess of five hundred thirteen dollars ($513) per month paid that member for service rendered.

(4) From July 1, 2002, to June 30, 2003, inclusive, the normal rate of contribution for a member described in subdivision (a) whose service is included in the federal system shall be 1 percent of the compensation in excess of five hundred thirteen dollars ($513) per month paid to that member for service rendered.

(c) This section does not apply to members employed by the California State University or the University of California.

(d) This section shall apply to state employees in State Bargaining Units 1, 3, 4, 11, or 15. If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

(e) This section shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends the date on which it becomes inoperative and is repealed.

SEC. 12. Section 20687 of the Government Code is amended to read:

20687. (a) The normal rate of contribution for state peace officer/firefighter members subject to Section 21363, 21363.1, or 21363.3 shall be 8 percent of the compensation in excess of two hundred thirty-eight dollars ($238) per month paid to those members.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(c) The Director of the Department of Personnel Administration may establish the normal rate of contribution for a state employee who is excepted from the definition of “state employee” in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service. The normal rate of contribution shall be the same for all members identified in this
subdivision. The contribution rate shall be effective the beginning of the pay period indicated by the Director of the Department of Personnel Administration but shall be no earlier than the beginning of the pay period following the date the board receives notification.

SEC. 13. The sum of thirty-five million four hundred eighty-six thousand dollars ($35,486,000) is hereby appointed for expenditure in the 2001–02 fiscal year in augmentation of, and for the purpose of state employee compensations as provided in, Items 9800-001-0001, 9800-001-0494, and 9800-001-0988 of Section 2.00 of the Budget Act of 2001 (Chapter 106 of the Statutes of 2001) in accordance to the following schedule:

(a) Seventeen million two hundred ninety-seven thousand dollars ($17,297,000) from the General Fund in augmentation of Item 9800-001-0001.

(b) Eleven million six hundred forty-one thousand dollars ($11,641,000) from unallocated special funds in augmentation of Item 9800-001-0494.

(c) Six million five hundred forty-eight thousand dollars ($6,548,000) from other unallocated nongovernmental cost funds in augmentation of Item 9800-001-0988.

SEC. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible in the 2001–2002 fiscal year, and thereby facilitate the orderly administration of state government at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 15

An act to amend Sections 1339.63 and 123296 of the Health and Safety Code, and to amend Section 4 of Chapter 842 of the Statutes of 2001, relating to public health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 21, 2002. Filed with Secretary of State March 21, 2002.]

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

SECTION 1. Section 1339.63 of the Health and Safety Code is amended to read:
1339.63. (a) (1) As a condition of licensure under this division, every general acute care hospital, as defined in subdivision (a) of Section 1250, special hospital, as defined in subdivision (f) of Section 1250, and surgical clinic, as defined in paragraph (1) of subdivision (b) of Section 1204, shall adopt a formal plan to eliminate or substantially reduce medication-related errors. With the exception of small and rural hospitals, as defined in Section 124840, this plan shall include technology implementation, such as, but not limited to, computerized physician order entry or other technology that, based upon independent, expert scientific advice and data, has been shown effective in eliminating or substantially reducing medication-related errors.

(2) Each facility’s plan shall be provided to the State Department of Health Services no later than January 1, 2002. Within 90 days after submitting a plan, the department shall either approve the plan, or return it to the facility with comments and suggestions for improvement. The facility shall revise and resubmit the plan within 90 days after receiving it from the department. The department shall provide final written approval within 90 days after resubmission, but in no event later than January 1, 2003. The plan shall be implemented on or before January 1, 2005.

(b) Any of the following facilities that is in the process of constructing a new structure or retrofitting an existing structure for the purposes of complying with seismic safety requirements shall be exempt from implementing a plan by January 1, 2005:

(1) General acute care hospitals, as defined in subdivision (a) of Section 1250.

(2) Special hospitals, as defined in subdivision (f) of Section 1250.

(3) Surgical clinics, as defined in paragraph (1) of subdivision (b) of Section 1204.

(c) The implementation date for facilities that are in the process of constructing a new structure or retrofitting an existing structure shall be six months after the date of completion of all retrofitting or new construction. The exemption and new implementation date specified in this paragraph shall apply to those facilities that have construction plans and financing for these projects in place no later than July 1, 2002.

(d) For purposes of this chapter, a “medication-related error” means any preventable medication-related event that adversely affects a patient in a facility listed in subdivision (a), and that is related to professional practice, or health care products, procedures, and systems, including, but not limited to, prescribing, prescription order communications, product labeling, packaging and nomenclature, compounding, dispensing, distribution, administration, education, monitoring, and use.

(e) Each facility’s plan shall do the following:
(1) Evaluate, assess, and include a method to address each of the procedures and systems listed under subdivision (d) to identify weaknesses or deficiencies that could contribute to errors in the administration of medication.

(2) Include an annual review to assess the effectiveness of the implementation of each of the procedures and systems listed under subdivision (d).

(3) Be modified as warranted when weaknesses or deficiencies are noted to achieve the reduction of medication errors.

(4) Describe the technology to be implemented and how it is expected to reduce medication errors as described in paragraph (1) of subdivision (a).

(5) Include a system or process to proactively identify actual or potential medication-related errors. The system or process shall include concurrent and retrospective review of clinical care.

(6) Include a multidisciplinary process, including health care professionals responsible for pharmaceuticals, nursing, medical, and administration, to regularly analyze all identified actual or potential medication-related errors and describe how the analysis will be utilized to change current procedures and systems to reduce medication-related errors.

(7) Include a process to incorporate external medication-related error alerts to modify current processes and systems as appropriate. Failure to meet this criterion shall not cause disapproval of the initial plan submitted.

(f) Beginning January 1, 2005, the department shall monitor the implementation of each facility’s plan upon licensure visits.

(g) The department may work with the facility’s health care community to present an annual symposium to recognize the best practices for each of the procedures and systems listed under subdivision (d).

SEC. 2. Section 123296 of the Health and Safety Code is amended to read:

123296. (a) Nutrition coupons shall be redeemable by recipients at any authorized retail food vendor.

(b) On or before January 1, 2006, the department shall submit a report to the appropriate committees of the Legislature on the impact of the implementation of this section, including an assessment of the impact of this section on fraud and the integrity of the program.

(c) This section shall become operative January 1, 2004.

(d) This section shall remain in effect only until July 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2006, deletes or extends that date.
SEC. 3. Section 4 of Chapter 842 of the Statutes of 2001 is amended to read:

Sec. 4. By delaying the operative date of Section 123296 of the Health and Safety Code to January 1, 2004, the Legislature intends to provide the State Department of Health Services sufficient time to ensure that it can monitor where California Special Supplemental Food Program for Women, Infants, and Children vouchers are cashed, and that the department will have sufficient data to conduct inventory audits to protect the integrity of the program.

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 allow sufficient time to ensure that adequate fraud protection measures are in place before Section 123296 of the Health and Safety Code is implemented, and to eliminate or substantially reduce medication-related errors in health facilities, it is necessary that this act take effect immediately as an urgency statute.

CHAPTER 16

An act relating to public contracts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 25, 2002. Filed with Secretary of State March 25, 2002.]

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

SECTION 1. This act is known and may be cited as “The 2012 Olympic Games Act.”

SEC. 2. For purposes of this act:

(a) “Endorsing Municipality” means the City and County of San Francisco, which has authorized a bid by a local organizing committee for selection of the municipality as the site of the Games.
(b) “Games” means the 2012 Olympic Games.
(c) “Games support contract” means a Joinder Undertaking, a Joinder Agreement, or a similar contract executed by the Governor and containing terms permitted or required by this act.
(d) “Joinder Agreement” means an agreement entered into by:
   (1) The Governor on behalf of this state and a site selection organization setting out representations and assurances by the state in connection with the selection of a site in this state for the location of the Games.
   (2) An Endorsing Municipality and a site selection organization setting out representations and assurances by the Endorsing Municipality in connection with the selection of a site in this state for the location of the Games.
(e) “Joinder Undertaking” means an agreement entered into by:
   (1) The Governor on behalf of this state and a site selection organization that the state will execute a Joinder Agreement in the event that the site selection organization selects a site in this state for the Games.
   (2) An Endorsing Municipality and a site selection organization that the Endorsing Municipality will execute a Joinder Agreement in the event that the site selection organization selects a site in this state for the Games.
(f) “Local organizing committee” means a nonprofit corporation, or its successor in interest, that:
   (1) Has been authorized by an Endorsing Municipality to pursue an application and bid on the applicant’s behalf to a site selection organization for selection as the site for the Games.
   (2) With the authorization of an Endorsing Municipality, has executed an agreement with a site selection organization regarding a bid to host the Games.
(g) “Site selection organization” means the United States Olympic Committee, or the International Olympic Committee, or both.

SEC. 3. The Legislature finds and declares all of the following:
(a) The purpose of this act is to provide assurances required by a site selection organization sponsoring the Games.
(b) The Bay Area Sports Organizing Committee (BASOC) has submitted a bid to the United States Olympic Committee to host the 2012 Olympic Games in the San Francisco Bay area, with the City and County of San Francisco as the official candidate city.
(c) Hosting the 2012 Olympic Games in the San Francisco Bay area is expected to generate billions of dollars for the regional economy. BASOC has developed a self-sufficient bid for privately financed Games, that is based on realistic and conservative revenue scenarios. BASOC has budgeted over $32 million to reimburse security and other
service costs provided by local regional governments during the 2012 Olympic Games.

d) BASOC plans to build over 2,500 new units of transit-accessible, high density infill, energy self-sufficient housing for the Olympic Village, serving as a model of environmentally responsible, sustainable development for the region. BASOC has committed to sports and recreational opportunities for young people throughout the San Francisco Bay area by planning to endow a foundation for youth programs with excess revenues from the 2012 Olympic Games.

e) BASOC has involved athletes, sports professionals, environmentalists, business and financial experts, nonprofit organizations, youth service leaders, and individuals who represent the entire diversity of the San Francisco Bay area in its bid and board of directors.

f) San Francisco is one of four bid cities throughout the country to be selected as a finalist by the United States Olympic Committee (USOC) to be the United States Candidate City for the 2012 summer Olympic Games. BASOC has submitted a bid to the USOC on behalf of San Francisco to host sporting events for the 2012 Olympic Games in San Francisco, San Jose, Oakland, Palo Alto, Sacramento, Monterey, and several other bay area cities and counties. The USOC requires that all bid states, bid cities, and bid committees execute certain agreements including the Joinder Agreement, which must be executed on or before November 30, 2002.

(g) BASOC expects that if San Francisco is chosen as the host city, and once the Games have concluded, there will be net revenue exceeding expenses that can be devoted to legacy programs for youth and citizens of San Francisco and the San Francisco Bay area and that BASOC has committed to providing those programs in its bid.

SEC. 4. (a) The Governor may agree, in accordance with law and subject to Sections 6 and 7 of this act, in a Joinder Undertaking entered into with a site selection organization that:

(1) The Governor will execute a Joinder Agreement if the Site Selection Organization selects a site in this state for the Games.

(2) The state will refrain, during the period, or any portion thereof, between the execution of the Joinder Undertaking and the IOC’s award of the Games to a host city, from becoming a party to or approving or consenting to any act, contract, commitment, or other action contrary to, or which might affect, any of the obligations stipulated in the Joinder Agreement.

(3) The Governor may agree that any dispute in connection with the Joinder Undertaking arising during the period between the execution of the Joinder Undertaking and the IOC’s award of the Games to a host city
shall be definitively settled as provided in the Candidate City Agreement.

(b) The Governor may agree in a Joinder Agreement that the state will, in accordance with law and subject to Sections 6 and 7 of this act, do the following:

1. Provide or cause to be provided any or all of the state government funding, facilities, and other resources specified in the local organizing committee’s bid to host the Games.

2. The state will be jointly liable, solely by means of the funding mechanism established by Sections 6 and 7 of this act, with the local organizing committee for:
   A. Obligations of the local organizing committee to a site selection organization, including obligations indemnifying the site selection organization against claims of and liabilities to third parties arising out of or relating to the Games.
   B. Any financial deficit relating to the local organizing committee or the Games.

3. The state’s joint liability shall not exceed the amount of funds appropriated to the Olympic Games Trust Fund established in Section 6 of this act. Any liability above this amount shall be the responsibility of the local organizing committee.

4. Acknowledge that the local organizing committee will be bound by a series of agreements with the site selection organization known as the Candidature Agreements as set forth in the Joinder Agreement.

(c) The Governor may agree to execute a Joinder Undertaking, a Joinder Agreement, other Games support contracts, and other contracts or agreements related to the conduct of the Games only if the Governor determines both of the following:

1. The state’s assurances and obligations under the undertaking, agreement, or contract are reasonable.

2. Any financial commitments of the state under this section, or any contract or agreement related to the conduct of the Games, including, but not limited to, any Games support contract and all financial obligations of the state otherwise arising out of this act will be satisfied exclusively by recourse to the Olympic Games Trust Fund, as applicable.

(d) Before executing a Games support contract, the Governor shall execute an agreement with the applicable local organizing committee requiring, if a site selection organization selects a site for the Games in this state, that the local organizing committee repay the state any funds expended by the state under this act from any surplus of the local organizing committee’s funds remaining after the presentation of the Games and after the payment of the expenses and obligations incurred by the local organization committee.
(e) A Games support contract may contain any additional provisions the Governor requires in order to carry out the purposes of this act.

SEC. 5. The Governor may develop a plan acceptable to the site selection organization for exercising appropriate oversight of the conduct of the local organizing committee and monitoring performance of the local organizing committee’s obligations under the Candidature Agreement, and will certify at least annually to the site selection organization that in the course of exercising that oversight and monitoring that performance, nothing, other than matters specifically described in that certification, has come to the state’s attention that would indicate either of the following:

(a) That the conduct of the local organizing committee to the date of certification has departed materially from the requirements of the site selection organization regarding the conduct of the local organizing committee.

(b) That the local organizing committee has failed to perform, or act in accordance with, its obligations under the Candidature Agreement.

SEC. 6. (a) There is hereby established in the State Treasury a special fund to be known as the “Olympic Games Trust Fund.”

(b) The state may choose to fund the Olympic Games Trust Fund in any manner it considers appropriate, and at such time or times the state determines necessary. It is the intent of this Legislature that the funding mechanism for the fund will be determined on or about the time of the selection of the Endorsing Municipality as the host city by the International Olympic Committee.

(c) The funds in the trust fund may be used only for the sole purpose of fulfilling the obligations of the state under a Games support contract to provide adequate security as described in Section 7.

(d) No additional state funds shall be deposited into the Olympic Games Trust Fund once the Director of Finance determines that the account has achieved, or is reasonably expected to otherwise accrue, a sufficient balance to provide adequate security, acceptable to the site selection organization, to demonstrate the state’s ability to fulfill its obligations under a Games support contract, or any other agreement, to indemnify and insure up to two hundred fifty million dollars ($250,000,000) of any net financial deficit and general liability resulting from the conduct of the Games.

(e) If an Endorsing Municipality is selected by the site selection organization as the host city for the Games, the Olympic Games Trust Fund shall be maintained until a determination by the Department of Finance is made that the state’s obligations under a Games support contract, or any other agreement, to indemnify and insure against any net financial deficit and general liability resulting from the conduct of the Games are satisfied and concluded, at which time the trust fund shall be
terminated. If a municipality in the State of California is not selected by the United States Olympic Committee as the United States candidate city to host the Games, or if the municipality is not selected by the International Olympic Committee as the host city for the Games, the Olympic Games Trust Fund shall be immediately terminated.

(f) Upon the termination of the Olympic Games Trust Fund, all sums earmarked, transferred, or contained in the fund, along with any investment earnings retained in the fund, shall immediately revert to the General Fund.

SEC. 7. (a) Any moneys deposited, transferred, or otherwise contained in the Olympic Games Trust Fund established in Section 6 shall be, upon appropriation by the Legislature, used for the sole purpose of obtaining adequate security, acceptable to the United States Olympic Committee and the International Olympic Committee, to demonstrate the state’s ability to fulfill its obligations under a Games support contract to indemnify and insure up to two hundred fifty million dollars ($250,000,000) of any general liability and net financial deficit resulting from the conduct of the Games. The security may be provided by moneys contained in the trust fund as provided in Section 6 of this act, or by insurance coverage, letters of credit, or other acceptable secured instruments purchased or secured by the moneys, or by any combination thereof. In no event may the liability of the state under all Games support contracts, any other agreements related to the conduct of the Games, and all financial obligations of the state otherwise arising under this act, exceed two hundred fifty million dollars ($250,000,000) in the aggregate.

(b) Obligations authorized by this act shall be payable solely from the Olympic Games Trust 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 act.

SEC. 8. The state shall be the payer of last resort with regard to any net financial deficit as defined in this act. The security provided pursuant to this act may not be accessed to cover any general liability and net financial deficit indemnified by the state under the Games support contract until:

(a) The security provided by the local organizing committee is fully expended and exhausted.

(b) Any security provided by any other person or entity is fully expended and exhausted.

(c) The limits of available insurance policies covering any general liability obligation and the net financial deficit, or any expense or liability used in determining the net financial deficit, have been fully expended and exhausted.
(d) Payment has been sought by the local organizing committee from all third parties owing moneys or otherwise liable to the local organizing committee.

SEC. 9. The local organizing committee shall list the state as an additional insured on any policy of insurance purchased by the local organizing committee to be in effect in connection with the preparation for and conduct of the Games.

SEC. 10. The local organizing committee may not engage in any conduct that reflects unfavorably upon this state, the Endorsing Municipality, or the Games, or that is contrary to law or to the rules and regulations of the United States Olympic Committee and the International Olympic Committee.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to meet deadlines for the bid process for the 2012 Olympic Games, it is necessary that this act go into immediate effect.

CHAPTER 17

An act to amend Section 290 of the Penal Code, relating to sex offenders, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 27, 2002. Filed with Secretary of State March 28, 2002.]

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

SECTION 1. Section 290 of the Penal Code is amended to read:

290. (a) (1) (A) Every person described in paragraph (2), for the rest of his or her life while residing in, or, if he or she has no residence, while located within California, or while attending school or working in California, as described in subparagraph (G), shall be required to register with the chief of police of the city in which he or she is residing, or if he or she has no residence, is located, or the sheriff of the county if he or she is residing, or if he or she has no residence, is located, in an unincorporated area or city that has no police department, and, additionally, with the chief of police of a campus of the University of California, the California State University, or community college if he or she is residing, or if he or she has no residence, is located upon the campus or in any of its facilities, within five working days of coming into, or changing his or her residence or location within, any city, county,
(B) If the person who is registering has more than one residence address or location at which he or she regularly resides or is located, he or she shall register in accordance with subparagraph (A) in each of the jurisdictions in which he or she regularly resides or is located. If all of the addresses or locations are within the same jurisdiction, the person shall provide the registering authority with all of the addresses or locations where he or she regularly resides or is located.

(C) If the person who is registering has no residence address, he or she shall update his or her registration no less than once every 60 days in addition to the requirement in subparagraph (A), on a form as may be required by the Department of Justice, with the entity or entities described in subparagraph (A) in whose jurisdiction he or she is located at the time he or she is updating the registration.

(D) Beginning on his or her first birthday following registration or change of address, the person shall be required to register annually, within five working days of his or her birthday, to update his or her registration with the entities described in subparagraph (A). At the annual update, the person shall provide current information as required on the Department of Justice annual update form, including the information described in subparagraphs (A) to (C), inclusive, of paragraph (2) of subdivision (e).

(E) In addition, every person who has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, shall, after his or her release from custody, verify his or her address no less than once every 90 days and place of employment, including the name and address of the employer, in a manner established by the Department of Justice.

(F) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN).

(G) Persons required to register in their state of residence who are out-of-state residents employed, or carrying on a vocation in California on a full-time or part-time basis, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, shall register in accordance with subparagraph (A). Persons described in paragraph (2) who are out-of-state residents enrolled in any educational institution in California, as defined in Section 22129 of the Education Code, on a full-time or part-time basis, shall register in accordance with subparagraph (A). The place where the out-of-state resident is located, for purposes of registration, shall be the place where
the person is employed, carrying on a vocation, or attending school. The out-of-state resident subject to this subparagraph shall, in addition to the information required pursuant to subdivision (e), provide the registering authority with the name of his or her place of employment or the name of the school attended in California, and his or her address or location in his or her state of residence. The registration requirement for persons subject to this subparagraph shall become operative on November 25, 2000. The terms “employed or carries on a vocation” include employment whether or not financially compensated, volunteered, or performed for government or educational benefit.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of Section 207 or 209 committed with intent to violate Section 261, 286, 288, 288a, or 289, Section 220, except assault to commit mayhem, Section 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, 266c, subdivision (b) of Section 266h, subdivision (b) of Section 266i, 266j, 267, 269, 285, 286, 288, 288a, 288.5, or 289, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6, former Section 647a, subdivision (c) of Section 653f, subdivision 1 or 2 of Section 314, any offense involving lewd or lascivious conduct under Section 272, or any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code or any person who has been found guilty in the guilt phase of a trial for an offense for which registration is required by this section but who has been found not guilty by reason of insanity in the sanity phase of the trial.

(D) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court, including any state, federal, or military court, of any offense that, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A) or any person ordered by any other court, including
any state, federal, or military court, to register as a sex offender for any offense, if the court found at the time of conviction or sentencing that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification.

(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction or sentencing that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(F) (i) Notwithstanding any other subdivision, a person who was convicted before January 1, 1976, under subdivision (a) of Section 286, or Section 288a, shall not be required to register pursuant to this section for that conviction if the conviction was for conduct between consenting adults that was decriminalized by Chapter 71 of the Statutes of 1975 or Chapter 1139 of the Statutes of 1976. The Department of Justice shall remove that person from the Sex Offender Registry, and the person is discharged from his or her duty to register pursuant to the following procedure:

(I) The person submits to the Department of Justice official documentary evidence, including court records or police reports, that demonstrate that the person’s conviction pursuant to either of those sections was for conduct between consenting adults that was decriminalized; or

(II) The person submits to the department a declaration stating that the person’s conviction pursuant to either of those sections was for consensual conduct between adults that has been decriminalized. The declaration shall be confidential and not a public record, and shall include the person’s name, address, telephone number, date of birth, and a summary of the circumstances leading to the conviction, including the date of the conviction and county of the occurrence.

(III) The department shall determine whether the person’s conviction was for conduct between consensual adults that has been decriminalized. If the conviction was for consensual conduct between adults that has been decriminalized, and the person has no other offenses for which he or she is required to register pursuant to this section, the department shall, within 60 days of receipt of those documents, notify the person that he or she is relieved of the duty to register, and shall notify the local law enforcement agency with which the person is registered that he or she has been relieved of the duty to register. The local law enforcement agency shall remove the person’s registration from its files within 30 days of receipt of notification. If the documentary or other evidence submitted is insufficient to establish the person’s claim, the department shall, within 60 days of receipt of those documents, notify the person that his
or her claim cannot be established, and that the person shall continue to register pursuant to this section. The department shall provide, upon the person's request, any information relied upon by the department in making its determination that the person shall continue to register pursuant to this section. Any person whose claim has been denied by the department pursuant to this clause may petition the court to appeal the department's denial of the person's claim.

(ii) On or before July 1, 1998, the department shall make a report to the Legislature concerning the status of persons who may come under the provisions of this subparagraph, including the number of persons who were convicted before January 1, 1976, under subdivision (a) of Section 286 or Section 288a and are required to register under this section, the average age of these persons, the number of these persons who have any subsequent convictions for a registerable sex offense, and the number of these persons who have sought successfully or unsuccessfully to be relieved of their duty to register under this section.

(b) (1) Any person who is released, discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official shall at the same time forward a current photograph of the person to the Department of Justice.

(2) The official in charge of the place of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction that makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency
that prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement or hospital shall retain one copy.

(c)  (1) Any person who is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is released on probation, shall, prior to release or discharge, be informed of the duty to register under this section by the probation department, and a probation officer shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The probation officer shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The probation officer shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(2) Any person who is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is granted conditional release without supervised probation, or discharged upon payment of a fine, shall, prior to release or discharge, be informed of the duty to register under this section in open court by the court in which the person has been convicted, and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. If the court finds that it is in the interest of the efficiency of the court, the court may assign the bailiff to require the person to read and sign forms under this section. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d)  (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the juvenile court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of any offense described in paragraph (3) shall be subject to registration under the procedures of this section.
(2) Any person who is discharged or paroled from a facility in another state that is equivalent to the Department of the Youth Authority, to the custody of which he or she was committed because of an offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in paragraph (3), shall be subject to registration under the procedures of this section.

(3) Any person described in this subdivision who committed an offense in violation of any of the following provisions shall be required to register pursuant to this section:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, Section 264.1, 266c, or 267, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, subdivision (a) of Section 289, or Section 647.6.

(C) A violation of Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289.

(4) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration under this subdivision shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(5) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case that are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) (1) On or after January 1, 1998, upon incarceration, placement, or commitment, or prior to release on probation, any person who is required to register under this section shall preregister. The preregistering official shall be the admitting officer at the place of incarceration, placement, or commitment, or the probation officer if the person is to be released on probation. The preregistration shall consist of both of the following:

(A) A preregistration statement in writing, signed by the person, giving information that shall be required by the Department of Justice.

(B) The fingerprints and a current photograph of the person.
(C) Any person who is preregistered pursuant to this subdivision is required to be preregistered only once.

(2) A person described in paragraph (2) of subdivision (a) shall register, or reregister if the person has previously registered, upon release from incarceration, placement, or commitment, pursuant to paragraph (1) of subdivision (a). The registration shall consist of all of the following:

(A) A statement in writing signed by the person, giving information as shall be required by the Department of Justice and giving the name and address of the person’s employer, and the address of the person’s place of employment if that is different from the employer’s main address.

(B) The fingerprints and a current photograph of the person taken by the registering official.

(C) The license plate number of any vehicle owned by, regularly driven by, or registered in the name of the person.

(D) Notice to the person that, in addition to the requirements of paragraph (4), he or she may have a duty to register in any other state where he or she may relocate.

(E) Copies of adequate proof of residence, which shall be limited to a California driver’s license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person’s name and address, or any other information that the registering official believes is reliable. If the person has no residence and no reasonable expectation of obtaining a residence in the foreseeable future, the person shall so advise the registering official and shall sign a statement provided by the registering official stating that fact. Upon presentation of proof of residence to the registering official or a signed statement that the person has no residence, the person shall be allowed to register. If the person claims that he or she has a residence but does not have any proof of residence, he or she shall be allowed to register but shall furnish proof of residence within 30 days of the day he or she is allowed to register.

(3) Within three days thereafter, the preregistering official or the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.

(f) (1) If any person who is required to register pursuant to this section changes his or her residence address or location, whether within the jurisdiction in which he or she is currently registered or to a new jurisdiction inside or outside the state, the person shall inform, in writing within five working days, the law enforcement agency or agencies with which he or she last registered of the new address or location. The law enforcement agency or agencies shall, within three days after receipt of
this information, forward a copy of the change of address or location information to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence or location.

(2) If the person’s new address is in a Department of the Youth Authority facility or a state prison or state mental institution, an official of the place of incarceration, placement, or commitment shall, within 90 days of receipt of the person, forward the registrant’s change of address information to the Department of Justice. The agency need not provide a physical address for the registrant but shall indicate that he or she is serving a period of incarceration or commitment in a facility under the agency’s jurisdiction. This paragraph shall apply to persons received in a Department of the Youth Authority facility or a state prison or state mental institution on or after January 1, 1999. The Department of Justice shall forward the change of address information to the agency with which the person last registered.

(3) If any person who is required to register pursuant to this section changes his or her name, the person shall inform, in person, the law enforcement agency or agencies with which he or she is currently registered within five working days. The law enforcement agency or agencies shall forward a copy of this information to the Department of Justice within three days of its receipt.

(g) (1) Any person who is required to register under this section based on a misdemeanor conviction or juvenile adjudication who willfully violates any requirement of this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Except as provided in paragraphs (5) and (7), any person who is required to register under this section based on a felony conviction or juvenile adjudication who willfully violates any requirement of this section or who has a prior conviction or juvenile adjudication for the offense of failing to register under this section and who subsequently and willfully violates any requirement of this section is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years.

If probation is granted or if the imposition or execution of sentence is suspended, it shall be a condition of the probation or suspension that the person serve at least 90 days in a county jail. The penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(3) Any person determined to be a mentally disordered sex offender or who has been found guilty in the guilt phase of trial for an offense for which registration is required under this section, but who has been found
not guilty by reason of insanity in the sanity phase of the trial, or who has had a petition sustained in a juvenile adjudication for an offense for which registration is required under this section pursuant to subdivision (d), but who has been found not guilty by reason of insanity, who willfully violates any requirement of this section is guilty of a misdemeanor and shall be punished by imprisonment in a county jail not exceeding one year. For any second or subsequent willful violation of any requirement of this section, the person is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years.

(4) If, after discharge from parole, the person is convicted of a felony or suffers a juvenile adjudication as specified in this subdivision, he or she shall be required to complete parole of at least one year, in addition to any other punishment imposed under this subdivision. A person convicted of a felony as specified in this subdivision may be granted probation only in the unusual case where the interests of justice would best be served. When probation is granted under this paragraph, the court shall specify on the record and shall enter into the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

(5) Any person who has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, and who fails to verify his or her registration every 90 days as required pursuant to subparagraph (E) of paragraph (1) of subdivision (a), shall be punished by imprisonment in the state prison, or in a county jail not exceeding one year.

(6) Except as otherwise provided in paragraph (5), and in addition to any other penalty imposed under this subdivision, any person who is required pursuant to subparagraph (C) of paragraph (1) of subdivision (a) to update his or her registration every 60 days and willfully fails to update his or her registration is guilty of a misdemeanor and shall be punished by imprisonment in a county jail not exceeding six months. Any subsequent violation of this requirement that persons described in subparagraph (C) of paragraph (1) of subdivision (a) shall update their registration every 60 days is also a misdemeanor and shall be punished by imprisonment in a county jail not exceeding six months.

(7) Any person who fails to provide proof of residence as required by subparagraph (E) of paragraph (2) of subdivision (e), regardless of the offense upon which the duty to register is based, is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months.

(8) Any person who is required to register under this section who willfully violates any requirement of this section is guilty of a continuing offense.
(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, “parole authority” has the same meaning as described in Section 3000.

(i) Except as provided in subdivisions (m) and (n) and Section 290.4, the statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This subdivision shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, “mentally disordered sex offender” includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(l) (1) Every person who, prior to January 1, 1997, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 14 to five working days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 14 days.

(2) Every person who, as a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, is required to verify his or her registration every 90 days, shall be notified wherever he or she next registers of his or her increased registration obligations. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notice shall be a defense against the penalties prescribed by paragraph (5) of subdivision (g).

(m) (1) When a peace officer reasonably suspects, based on information that has come to his or her attention through information provided by any peace officer or member of the public, that a child or other person may be at risk from a sex offender convicted of a crime listed in paragraph (1) of subdivision (a) of Section 290.4, a law
enforcement agency may, notwithstanding any other provision of law, provide any of the information specified in paragraph (4) of this subdivision about that registered sex offender that the agency deems relevant and necessary to protect the public, to the following persons, agencies, or organizations the offender is likely to encounter, including, but not limited to, the following:

(A) Public and private educational institutions, day care establishments, and establishments and organizations that primarily serve individuals likely to be victimized by the offender.

(B) Other community members at risk.

(2) The law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (1) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in paragraph (1) have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(3) Persons notified pursuant to paragraph (1) may disclose the information provided by the law enforcement agency in the manner and to the extent authorized by the law enforcement agency.

(4) The information that may be disclosed pursuant to this section includes the following:

(A) The offender’s full name.

(B) The offender’s known aliases.

(C) The offender’s gender.

(D) The offender’s race.

(E) The offender’s physical description.

(F) The offender’s photograph.

(G) The offender’s date of birth.

(H) Crimes resulting in registration under this section.

(I) The offender’s address, which must be verified prior to publication.

(J) Description and license plate number of offender’s vehicles or vehicles the offender is known to drive.

(K) Type of victim targeted by the offender.

(L) Relevant parole or probation conditions, such as one prohibiting contact with children.

(M) Dates of crimes resulting in classification under this section.

(N) Date of release from confinement.

(O) The offender’s enrollment, employment, or vocational status with any university, college, community college, or other institution of higher learning.

However, information disclosed pursuant to this subdivision shall not include information that would identify the victim.
(5) If a law enforcement agency discloses information pursuant to this subdivision, it shall include, with the disclosure, a statement that the purpose of the release of the information is to allow members of the public to protect themselves and their children from sex offenders.

(6) For purposes of this section, “likely to encounter” means both of the following:

(A) That the agencies, organizations, or other community members are in a location or in close proximity to a location where the offender lives or is employed, or that the offender visits or is likely to visit on a regular basis.

(B) The types of interaction that ordinarily occur at that location and other circumstances indicate that contact with the offender is reasonably probable.

(7) For purposes of this section, “reasonably suspects” means that it is objectively reasonable for a peace officer to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect that a child or other person is at risk.

(8) For purposes of this section, “at risk” means a person is or may be exposed to a risk of becoming a victim of a sex offense committed by the offender.

(9) A law enforcement agency may continue to disclose information on an offender under this subdivision for as long as the offender is included in Section 290.4.

(n) In addition to the procedures set forth elsewhere in this section, a designated law enforcement entity may advise the public of the presence of high-risk sex offenders in its community pursuant to this subdivision.

(1) For purposes of this subdivision:

(A) A high-risk sex offender is a person who has been convicted of an offense specified in paragraph (1) of subdivision (a) of Section 290.4, and also meets one of the following criteria:

(i) Has been convicted of three or more violent sex offenses, at least two of which were brought and tried separately.

(ii) Has been convicted of two violent sex offenses and one or more violent nonsex offenses, at least two of which were brought and tried separately.

(iii) Has been convicted of one violent sex offense and two or more violent nonsex offenses, at least two of which were brought and tried separately.

(iv) Has been convicted of either two violent sex offenses or one violent sex offense and one violent nonsex offense, at least two of which were brought and tried separately, and has been arrested on separate
occasions for three or more violent sex offenses, violent nonsex offenses, or associated offenses.

(v) Has been adjudicated a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(B) A violent sex offense means any offense defined in Section 220, except attempt to commit mayhem, or Section 261, 264.1, 286, 288, 288a, 288.5, 289, or 647.6, or infliction of great bodily injury during the commission of a sex offense, as provided in Section 12022.8.

(C) A violent nonsex offense means any offense defined in Section 187, subdivision (a) of Section 192, or Section 203, 206, 207, or 236, provided that the offense is a felony, subdivision (a) of Section 273a, Section 273d or 451, or attempted murder, as defined in Sections 187 and 664.

(D) An associated offense means any offense defined in Section 243.4, provided that the offense is a felony, Section 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, 311.7, or 314, Section 459, provided the offense is of the first degree, Section 597 or 646.9, subdivision (d), (h), or (i) of Section 647, Section 653m, or infliction of great bodily injury during the commission of a felony, as defined in Section 12022.7.

(E) For purposes of subparagraphs (B) to (D), inclusive, an arrest or conviction for the statutory predecessor of any of the enumerated offenses, or an arrest or conviction in any other jurisdiction for any offense that, if committed or attempted in this state, would have been punishable as one or more of the offenses described in those subparagraphs, is to be considered in determining whether an offender is a high-risk sex offender.

(F) For purposes of subparagraphs (B) to (D), inclusive, an arrest as a juvenile or an adjudication as a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code for any of the offenses described in those subparagraphs is to be considered in determining whether an offender is a high-risk sex offender.

(G) Notwithstanding subparagraphs (A) to (D), inclusive, an offender shall not be considered to be a high-risk sex offender if either of the following apply:

(i) The offender’s most recent conviction or arrest for an offense described in subparagraphs (B) to (D), inclusive, occurred more than five years prior to the high-risk assessment by the Department of Justice, excluding periods of confinement.

(ii) The offender notifies the Department of Justice, on a form approved by the department and available at any sheriff’s office, that he or she has not been convicted in the preceding 15 years, excluding periods of confinement, of an offense for which registration is required under paragraph (2) of subdivision (a), and the department is able, upon
exercise of reasonable diligence, to verify the information provided in paragraph (2).

(H) “Confinement” means confinement in a jail, prison, school, road camp, or other penal institution, confinement in a state hospital to which the offender was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, or confinement in a facility designated by the Director of Mental Health to which the offender was committed as a sexually violent predator under Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(I) “Designated law enforcement entity” means any of the following: municipal police department; sheriff’s department; district attorney’s office; county probation department; Department of Justice; Department of Corrections; Department of the Youth Authority; Department of the California Highway Patrol; or the police department of any campus of the University of California, California State University, or community college.

(2) The Department of Justice shall continually search the records provided to it pursuant to subdivision (b) and identify, on the basis of those records, high-risk sex offenders. Four times each year, the department shall provide to each chief of police and sheriff in the state, and to any other designated law enforcement entity upon request, the following information regarding each identified high-risk sex offender: full name; known aliases; gender; race; physical description; photograph; date of birth; and crimes resulting in classification under this section.

(3) The Department of Justice and any designated law enforcement entity to which notice has been given pursuant to paragraph (2) may cause to be made public, by whatever means the agency deems necessary to ensure the public safety, based upon information available to the agency concerning a specific person, including, but not limited to, the information described in paragraph (2); the offender’s address, which shall be verified prior to publication; description and license plate number of the offender’s vehicles or vehicles the offender is known to drive; type of victim targeted by the offender; relevant parole or probation conditions, such as one prohibiting contact with children; dates of crimes resulting in classification under this section; and date of release from confinement; but excluding information that would identify the victim.

(4) Notwithstanding any other provision of law, any person described in paragraph (2) of subdivision (p) who receives information from a designated law enforcement entity pursuant to paragraph (3) may
disclose that information in the manner and to the extent authorized by the law enforcement entity.

(5) The law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (3) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in this subdivision have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(o) Agencies disseminating information to the public pursuant to Section 290.4 shall maintain records of those persons requesting to view the CD-ROM or other electronic media for a minimum of five years. Agencies disseminating information to the public pursuant to subdivision (n) shall maintain records of the means and dates of dissemination for a minimum of five years.

(p) (1) Any law enforcement agency and employees of any law enforcement agency shall be immune from liability for good faith conduct under this section. For the purposes of this section, “law enforcement agency” means the Attorney General of California, every district attorney, the Department of Corrections, the Department of the Youth Authority, and every state or local agency expressly authorized by statute to investigate or prosecute law violators.

(2) Any public or private educational institution, day care facility, or any child care custodian described in Section 11165.7, or any employee of a public or private educational institution or day care facility which in good faith disseminates information as authorized pursuant to paragraph (3) of subdivision (m) or paragraph (4) of subdivision (n) that is provided by a law enforcement agency or an employee of a law enforcement agency shall be immune from civil liability.

(q) (1) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to any other punishment, by a five-year term of imprisonment in the state prison.

(2) Any person who uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than five hundred dollars ($500) and not more than one thousand dollars ($1,000).

(r) The registration and public notification provisions of this section are applicable to every person described in this section, without regard to when his or her crimes were committed or his or her duty to register pursuant to this section arose, and to every offense described in this section, regardless of when it was committed.

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

In order to clarify legislative intent with respect to treatment of sex offenders on probation or parole, it is necessary for this act to become effective immediately.

CHAPTER 18

An act relating to the Glassy-winged Sharpshooter, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 6, 2002. Filed with Secretary of State April 8, 2002.]

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

SECTION 1. The Legislature finds and declares the following:

(a) California is the leading producer of wine in the United States, accounting for 91 percent of the total United States wine production and 72 percent of total wine sales.

(b) The Glassy-winged Sharpshooter is a potent vector for Pierce’s disease that has the potential to harm California’s multibillion dollar wine industry by transmitting the bacterium Xylella Fastidiosa. This bacterium destroys wine grape plants by shutting down the plant’s ability to take up water and nutrients.

(c) To date, the Glassy-winged Sharpshooter and the resulting Pierce’s disease have destroyed millions of dollars of California’s most productive wine and table grapevines. This has resulted in rural unemployment and severely threatens local rural economies.

SEC. 2. The sum of seven million one hundred forty thousand dollars ($7,140,000) in federal funds made available to the Department of Food and Agriculture pursuant to Public Law 106-224, and pursuant to regulations and guidelines adopted thereunder, to compensate grape growers for vine losses resulting from Pierce’s disease spread by the Glassy-winged Sharpshooter, are hereby appropriated to the Department of Food and Agriculture Fund for distribution via individual grants in accordance with criteria established by the department, consistent with federal guidelines. The department may retain not more than 5 percent of the federal allocation to cover administrative expenses directly related to the program, including department overhead and third-party verifications.
Funds appropriated pursuant to this section shall be available for expenditure by the department until December 31, 2002.

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 restore rural economic stability to grape production areas of California at the earliest possible time, it is necessary for this act to take effect immediately as an urgency statute.

CHAPTER 19

An act to add Section 68130.7 to the Education Code, and to amend Section 1 of Chapter 814 of the Statutes of 2001, relating to public postsecondary education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 6, 2002. Filed with Secretary of State April 8, 2002.]

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

SECTION 1. Section 1 of Chapter 814 of the Statutes of 2001 is amended to read:

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

(1) There are high school pupils who have attended elementary and secondary schools in this state for most of their lives and who are likely to remain, but are precluded from obtaining an affordable college education because they are required to pay nonresident tuition rates.

(2) These pupils have already proven their academic eligibility and merit by being accepted into our state’s colleges and universities.

(3) A fair tuition policy for all high school pupils in California ensures access to our state’s colleges and universities, and thereby increases the state’s collective productivity and economic growth.

(4) This act, as enacted during the 2001–02 Regular Session, allows all persons, including undocumented immigrant students who meet the requirements set forth in Section 68130.5 of the Education Code, to be exempt from nonresident tuition in California’s colleges and universities.

(5) This act, as enacted during the 2001–02 Regular Session, does not confer postsecondary education benefits on the basis of residence within the meaning of Section 1623 of Title 8 of the United States Code.
(b) It is the intent of the Legislature that this act will have no impact on the ability of California’s public colleges and universities to assess nonresident tuition on students who are not within the scope of this act.

SEC. 2. Section 68130.7 is added to the Education Code, to read:

68130.7. If a state court finds that Section 68130.5, or any similar provision adopted by the Regents of the University of California, is unlawful, the court may order, as equitable relief, that the administering entity that is the subject of the lawsuit terminate any waiver awarded under that statute or provision, but no money damages, tuition refund or waiver, or other retroactive relief, may be awarded. In any action in which the court finds that Section 68130.5, or any similar provision adopted by the Regents of the University of California, is unlawful, the California Community Colleges, the California State University, and the University of California are immune from the imposition of any award of money damages, tuition refund or waiver, or other retroactive relief.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for this act to take effect in time for the commencement of the 2002–03 academic year, it is necessary for it to take effect immediately.

CHAPTER 20

An act to amend Section 13246 of, and to add Section 13191.3 to, the Water Code, relating to water, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 6, 2002. Filed with Secretary of State April 8, 2002.]

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

SECTION 1. Section 13191.3 is added to the Water Code, to read:

13191.3. (a) The state board, on or before July 1, 2003, shall prepare guidelines to be used by the state board and the regional boards for the purpose of listing and delisting waters and developing and implementing the total maximum daily load (TMDL) program and total maximum daily loads pursuant to Section 303(d) of the federal Clean Water Act (33 U.S.C. Sec. 1313(d)).

(b) For the purposes of preparing the guidelines, the state board shall consider the consensus recommendations adopted by the public advisory group convened pursuant to Section 13191.
(c) The guidelines shall be finalized not later than January 1, 2004.  
SEC. 2. Section 13246 of the Water Code is amended to read:  
13246. (a) The state board shall act upon any water quality control  
plan not later than 60 days from the date the regional board submitted  
the plan to the state board, or 90 days from the date of resubmission of  
the plan.  
(b) When the state board is acting upon a water quality control plan  
that is being amended solely for an action related to a regional board’s  
total maximum daily load submittal, not including submittals related to  
listing, the state board shall not exceed the 60-day timeline, inclusive of  
the time spent sending the submittal back to the regional board, unless  
one of the following circumstances exists:  
(1) The proposed amendment is for an exceedingly complex total  
maximum daily load. In order to determine if a total maximum daily load  
is exceedingly complex, the state board may consider a number of  
factors including, but not limited to, the volume of the record, the  
number of pollutants included, the number of dischargers and land uses  
involved, and the size of the watershed. The reason or reasons that any  
total maximum daily load is determined to be exceedingly complex shall  
be provided by the state board to the regional board in writing.  
(2) The submittal by the regional board is clearly incomplete.  
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 timely implement federal requirements for the  
development and implementation of the total maximum daily load  
program, a program critical to the management of water quality, it is  
necessary for this act to take effect immediately.

CHAPTER 21

An act to amend Sections 30061 and 30063 of the Government Code,  
relating to law enforcement funding, and declaring the urgency thereof,  
to take effect immediately.

[Approved by Governor April 6, 2002. Filed with  
Secretary of State April 8, 2002.]

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

SECTION 1. Section 30061 of the Government Code is amended to  
read:
30061. (a) There shall be established in each county treasury a Supplemental Law Enforcement Services Fund (SLESF), to receive all amounts allocated to a county for purposes of implementing this chapter.

(b) In any fiscal year for which a county receives money to be expended for the implementation of this chapter, the county auditor shall allocate moneys in the county’s SLESF, including any interest or other return earned on the investment of those moneys, within 30 days of the deposit of those moneys into the fund, and shall allocate those moneys in accordance with the requirements set forth in this subdivision. However, the auditor shall not transfer those moneys to a recipient agency until the Supplemental Law Enforcement Oversight Committee certifies receipt of an approved expenditure plan from the governing board of that agency.

(1) Five and fifteen one hundredths percent (5.15%) to the county sheriff for county jail construction and operation. In the case of Madera, Napa, and Santa Clara Counties, this allocation shall be made to the county director or chief of corrections.

(2) Five and fifteen one hundredths percent (5.15%) to the district attorney for criminal prosecution.

(3) Thirty-nine and seven-tenths percent (39.7%) to the county and the cities within the county, and, in the case of San Mateo, Kern, Siskiyou, and Contra Costa Counties, also to the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, and the Kensington Police Protection and Community Services District, in accordance with the relative population of the cities within the county and the unincorporated area of the county, and the Broadmoor Police Protection District in the County of San Mateo, the Bear Valley Community Services District and the Stallion Springs Community Services District in Kern County, the Lake Shastina Community Services District in Siskiyou County, and the Kensington Police Protection and Community Services District in Contra Costa County, as specified in the most recent January estimate by the population research unit of the Department of Finance, and as adjusted to provide a grant of at least one hundred thousand dollars ($100,000) to each law enforcement jurisdiction. For a newly incorporated city whose population estimate is not published by the Department of Finance but which was incorporated prior to July 1 of the fiscal year in which an allocation from the SLESF is to be made, the city manager, or an appointee of the legislative body, if a city manager is not available, and the county administrative or executive officer shall prepare a joint notification to the Department of Finance and the county auditor with a population estimate reduction of the unincorporated area of the county equal to the population of the newly incorporated city by July 15, or
within 15 days after the Budget Act is enacted, of the fiscal year in which an allocation from the SLESF is to be made. No person residing within the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, or the Kensington Police Protection and Community Services District shall also be counted as residing within the unincorporated area of the County of San Mateo, Kern, Siskiyou, or Contra Costa, or within any city located within those counties. The county auditor shall allocate a grant of at least one hundred thousand dollars ($100,000) to each law enforcement jurisdiction. Moneys allocated to the county pursuant to this subdivision shall be retained in the county SLESF, and moneys allocated to a city pursuant to this subdivision shall be deposited in a SLESF established in the city treasury.

(4) Fifty percent (50%) to the county or city and county to implement a comprehensive multiagency juvenile justice plan as provided in this paragraph. This plan shall be developed by the local juvenile justice coordinating council in each county and city and county with the membership described in Section 749.22 of the Welfare and Institutions Code. If a plan has been previously approved by the Board of Corrections, the plan shall be reviewed and modified annually by the council. The plan or modified plan shall be approved by the county board of supervisors, and in the case of a city and county, the plan shall also be approved by the mayor. The plan or modified plan shall be submitted to the Board of Corrections by May 1, 2002, and annually thereafter.

(A) Juvenile justice plans shall include, but not be limited to, all of the following components:

(i) An assessment of existing law enforcement, probation, education, mental health, health, social services, drug and alcohol and youth services resources that specifically target at-risk juveniles, juvenile offenders, and their families.

(ii) An identification and prioritization of the neighborhoods, schools, and other areas in the community that face a significant public safety risk from juvenile crime, such as gang activity, daylight burglary, late-night robbery, vandalism, truancy, controlled substances sales, firearm-related violence, and juvenile substance abuse and alcohol use.

(iii) A local juvenile justice action strategy that provides for a continuum of responses to juvenile crime and delinquency and demonstrates a collaborative and integrated approach for implementing a system of swift, certain, and graduated responses for at-risk youth and juvenile offenders.

(iv) Programs identified in clause (iii) that are proposed to be funded pursuant to this subparagraph, including the projected amount of funding for each program.
(B) Programs proposed to be funded shall satisfy all of the following requirements:
   (i) Be based on programs and approaches that have been demonstrated to be effective in reducing delinquency and addressing juvenile crime for any elements of response to juvenile crime and delinquency, including prevention, intervention, suppression, and incapacitation.
   (ii) Collaborate and integrate services of all the resources set forth in clause (i) of subparagraph (A), to the extent appropriate.
   (iii) Employ information sharing systems to ensure that county actions are fully coordinated, and designed to provide data for measuring the success of juvenile justice programs and strategies.
   (iv) Adopt goals related to the outcome measures that shall be used to determine the effectiveness of the local juvenile justice action strategy.

(C) The plan shall also identify the specific objectives of the programs proposed for funding and specified outcome measures to determine the effectiveness of the programs and an accounting for all program participants, including those who do not complete the programs. Outcome measures of the programs proposed to be funded shall include, but not be limited to, all of the following:
   (i) The rate of juvenile arrests per 100,000 population.
   (ii) The rate of successful completion of probation.
   (iii) The rate of successful completion of restitution and court-ordered community service responsibilities.
   (iv) Arrest, incarceration, and probation violation rates of program participants.
   (v) Quantification of the annual per capita costs of the program.

(D) The Board of Corrections shall review plans or modified plans submitted pursuant to this paragraph within 30 days upon receipt of submitted or resubmitted plans or modified plans. The board shall approve only those plans or modified plans that fulfill the requirements of this paragraph, and shall advise a submitting county or city and county immediately upon the approval of its plan or modified plan. The board shall offer, and provide if requested, technical assistance to any county or city and county that submits a plan or modified plan not in compliance with the requirements of this paragraph. The SLESF shall only allocate funding pursuant to this paragraph upon notification from the board that a plan or modified plan has been approved.

(E) To assess the effectiveness of programs funded pursuant to this paragraph using the program outcome criteria specified in subparagraph (C), the following periodic reports shall be submitted:
   (i) Each county or city and county shall report, beginning October 15, 2002, and annually each October 15 thereafter, to the county board of
supervisors and the Board of Corrections, in a format specified by the Board of Corrections, on the programs funded pursuant to this chapter and program outcomes as specified in subparagraph (C).

(ii) The Board of Corrections shall compile the local reports and, by March 15, 2003, and annually thereafter, make a report to the Governor and the Legislature on program expenditures within each county and city and county from the appropriation for the purposes of this paragraph, on the outcomes as specified in subparagraph (C) of the programs funded pursuant to this paragraph and the statewide effectiveness of the comprehensive multiagency juvenile justice plans.

(c) Subject to subdivision (d), for each fiscal year in which the county, each city, the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, and the Kensington Police Protection and Community Services District receive moneys pursuant to paragraph (3) of subdivision (b), the county, each city, and each district specified in this subdivision shall appropriate those moneys in accordance with the following procedures:

(1) In the case of the county, the county board of supervisors shall appropriate existing and anticipated moneys exclusively to provide frontline law enforcement services, other than those services specified in paragraphs (1) and (2) of subdivision (b), in the unincorporated areas of the county, in response to written requests submitted to the board by the county sheriff and the district attorney. Any request submitted pursuant to this paragraph shall specify the frontline law enforcement needs of the requesting entity, and those personnel, equipment, and programs that are necessary to meet those needs. The board shall, at a public hearing held in September in each year that the Legislature appropriates funds for purposes of this chapter, consider and determine each submitted request within 60 days of receipt, pursuant to the decision of a majority of a quorum present. The board shall consider these written requests separate and apart from the process applicable to proposed allocations of the county general fund.

(2) In the case of a city, the city council shall appropriate existing and anticipated moneys exclusively to fund frontline municipal police services, in accordance with written requests submitted by the chief of police of that city or the chief administrator of the law enforcement agency that provides police services for that city. These written requests shall be acted upon by the city council in the same manner as specified in paragraph (1) for county appropriations.

(3) In the case of the Broadmoor Police Protection District within the County of San Mateo, the Bear Valley Community Services District or the Stallion Springs Community Services District within Kern County, the Lake Shastina Community Services District within Siskiyou
County, or the Kensington Police Protection and Community Services District within Contra Costa County, the legislative body of that special district shall appropriate existing and anticipated moneys exclusively to fund frontline municipal police services, in accordance with written requests submitted by the chief administrator of the law enforcement agency that provides police services for that special district. These written requests shall be acted upon by the legislative body in the same manner specified in paragraph (1) for county appropriations.

(d) For each fiscal year in which the county, a city, or the Broadmoor Police Protection District within the County of San Mateo, the Bear Valley Community Services District or the Stallion Springs Community Services District within Kern County, the Lake Shastina Community Services District within Siskiyou County, or the Kensington Police Protection and Community Services District within Contra Costa County receives any moneys pursuant to this chapter, in no event shall the governing body of any of those recipient agencies subsequently alter any previous, valid appropriation by that body, for that same fiscal year, of moneys allocated to the county or city pursuant to paragraph (3) of subdivision (b).

(e) Funds received pursuant to subdivision (b) shall be expended or encumbered in accordance with this chapter no later than June 30 of the following fiscal year. A local agency that has not met this requirement shall remit unspent SLESF moneys to the Controller for deposit into the General Fund.

(f) In the event that a county, a city, a city and county, or a qualifying special district does not comply with the requirements of this chapter to receive an SLESF allocation, the Controller shall revert those funds to the General Fund.

SEC. 2. Section 30063 of the Government Code is amended to read:

30063. (a) The Supplemental Law Enforcement Services Fund (SLESF) in each county or city is to be expended exclusively as required by this chapter. Moneys in that fund shall not be transferred to, or intermingled with, the moneys in any other fund in the county or city treasury, except that moneys may be transferred from the SLESF to the county’s or city’s general fund to the extent necessary to facilitate the appropriation and expenditure of those transferred moneys in the manner required by this chapter.

(b) Moneys in a SLESF may only be invested in safe and conservative investments in accordance with those standards of prudent investment applicable to the investment of trust moneys. The treasurer of the county and each city shall provide a monthly SLESF investment report to either the police chief or the county sheriff and district attorney, as applicable.

(c) Each year, at least 30 days prior to the date of the duly noticed public hearing required pursuant to paragraph (1) of subdivision (c) of
Section 30061, the county auditor and city treasurer shall detail and summarize allocations from the county’s or city’s SLESF, as applicable, in a written, public report filed with the Supplemental Law Enforcement Oversight Committee (SLEOC), the county board of supervisors, or the city council, as applicable, for the entirety of the immediately preceding fiscal year, and the county sheriff or police chief, as applicable.

(d) A summary of the annual reports required in subdivision (c) shall be submitted in a standardized format to be developed by the Controller, in conjunction with the California District Attorney’s Association, California Police Chief’s Association, California State Sheriff’s Association, California Peace Officer’s Association, California County Auditor’s Association, and California Municipal Treasurer’s Association, by each SLEOC to the Controller on or before October 15, 2001, and each year thereafter. The Controller shall make a copy of the summarized reports available to the Governor, the Legislature, and the Legislative Analyst’s office.

(e) By March 1 of each year, the Legislative Analyst’s office shall report to the Legislature on the types of expenditures made by local law enforcement agencies in the previous fiscal year pursuant to this chapter, and, to the extent feasible, on the effects of those expenditures on law enforcement and public safety.

(f) A county, a city, or a city and county that fails to submit the data required pursuant to subdivision (d) of this section or to report as required pursuant to clause (i) of subparagraph (E) of paragraph (4) of subdivision (b) of Section 30061 shall not continue to expend funds allocated pursuant to subdivision (b) of Section 30061 or interest earned pursuant to subdivision (b) of this section until that data and that report are submitted as required by this chapter.

(g) Notwithstanding subdivision (f), if the Supplemental Law Enforcement Oversight Committee (SLEOC) fails to transmit the data to the Controller required pursuant to subdivision (d), the local law enforcement agency may submit its expenditure data directly to the Controller no later than 15 days after the date specified in subdivision (d). If the local law enforcement agency has complied with other requirements in this chapter, it may continue to expend funds allocated and interest earned pursuant to this chapter.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that cities, counties, and cities and counties submit required data and make reports on a timely basis in order to continue to
expend funds for supplemental law enforcement services, it is necessary that this act take effect immediately.

CHAPTER 22

An act to amend Section 1577.5 of the Code of Civil Procedure, relating to unclaimed property, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 17, 2002. Filed with Secretary of State April 17, 2002.]

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

SECTION 1. Section 1577.5 of the Code of Civil Procedure is amended to read:

1577.5. (a) Section 1577 does not apply to, and interest may not be imposed upon, any escheated property paid or delivered to the Controller at any time on or before December 31, 2002.

(b) Subdivision (a) shall apply only if the following requirements are met:

(1) On or before January 1, 2003, the holder of the property was not the subject of an investigation by the Attorney General or a party to litigation with the Controller, relating to the property. “Investigation by the Attorney General” means an investigation being conducted under any law authorizing the investigation, including, but not limited to, investigations authorized by or conducted pursuant to Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code by the office of the Attorney General relating to the escheat of property subject to subdivision (a).

(2) On or before January 3, 2000, the holder of the property was not the subject of an audit by the Controller relating to the property. “Audit by the Controller” means a formal field audit of the propertyholder’s books and records by audit personnel of the Controller’s office for the purpose of determining compliance with this chapter.

(3) The property was required to be reported on or before November 1, 1999.

(4) The property is surrendered directly to the state or its authorized agent.

(5) Reports respecting the property are reported by electronic media satisfactory to the Controller, provided that paper reports shall be permitted with respect to holders reporting fewer than 50 accounts or other items.
(6) All property reported after the effective date of this act shall be reported on a report separate from property currently reportable, and may not be reported with property not eligible for the amnesty program.

(7) The property is paid or delivered to the Controller at the time the report is made.

(8) Securities are remitted in accordance with Section 1532.

(9) Records shall be maintained in a manner satisfactory to the Controller, to permit verification and compliance audits.

(c) Nothing in subdivision (a) shall create an entitlement to a refund of interest paid to the Controller prior to the effective date of this section.

(d) The Controller shall conduct an outreach and publicity program regarding the provisions of this section.

(e) The Controller shall submit a report to the Legislature on the amnesty program. The report shall include a comprehensive accounting of all unclaimed property surrendered under the amnesty program, the date the property was surrendered, and the identities of the holders of surrendered unclaimed property. The report shall be published no later than July 31, 2003.

(f) Nothing in this section shall preclude liability pursuant to Article 9 (commencing with Section 12650) of Chapter 6 of Title 2 of Division 3 of the Government Code regarding false claims. Reporting or filing extensions shall not be granted for property under this section.

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

To ensure the financial solvency of the State of California in view of the fiscal crisis, it is necessary that this act take effect immediately.

CHAPTER  23

An act to amend Sections 5540.5, 5540.6, and 5549 of the Public Resources Code, relating to park and open-space districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 17, 2002. Filed with Secretary of State April 17, 2002.]

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

SECTION 1. Section 5540.5 of the Public Resources Code is amended to read:
5540.5. (a) Notwithstanding Section 5540, a district, with the approval by a unanimous vote of the members of its board of directors, may exchange any real property, or any interest in real property, dedicated and used for park or open-space purposes, or both, for real property, or any interest in real property, that the board of directors determines to be of equal or greater value and is necessary to be acquired for park or open-space purposes, or both.

(b) A district shall not in any calendar year exchange more than 10 acres of district-owned real property, or any interest in real property, pursuant to this section for other real property, or any interest in real property, and any real property, or any interest in real property, acquired by the district shall be adjacent to other real property owned by the district.

(c) Notwithstanding subdivision (b), the East Bay Regional Park District and the Midpeninsula Regional Open Space District may exchange up to a maximum of 40 acres of district-owned real property, or any interest in real property, in any calendar year pursuant to this section for other real property, and any real property, or any interest in real property, so acquired by the district shall be adjacent to other real property owned by the district.

SEC. 2. Section 5540.6 of the Public Resources Code is amended to read:

5540.6. Notwithstanding Section 5540, a district may, with the approval by a four-fifths vote of the board of directors, convey to another public agency any real property, or any interest in real property, dedicated and used for park or open-space purposes, or both, provided the public agency undertakes in a recorded written agreement to continue to use the real property, or the interest in the real property, for those purposes and not to convey the real property, or the interest in the real property, without the consent of a majority of the voters of the district at an election called and conducted by the board pursuant to Section 5540.

SEC. 3. Section 5549 of the Public Resources Code is amended to read:

5549. (a) The general manager has the following administrative and executive functions, powers, and duties. The general manager shall do all of the following:

(1) Enforce this article and all ordinances and regulations of the district.

(2) Appoint subordinates, clerks, and other employees, and exercise supervision and control over all departments and offices of the district. Those appointees shall hold employment at the pleasure of the general manager.

(3) Attend all meetings of the board unless excused by the board.
(4) Submit to the board for adoption any measures, ordinances, and regulations he or she deems necessary or expedient.
(5) Enforce all terms and conditions imposed in favor of the district or its inhabitants in any contract and report any violations to the board or the police department, as appropriate.
(6) Prepare and submit the annual budget to the board, and perform all other duties imposed by this article or by the board.

(b) (1) With the approval of the board, the general manager may bind the district, in accordance with board policy, and without advertising, for the payment for supplies, materials, labor, or other valuable consideration for any purpose other than new construction of any building, structure, or improvement in amounts not exceeding ten thousand dollars ($10,000), and for the payment for supplies, materials, or labor for new construction of any building, structure, or improvement in amounts not exceeding twenty-five thousand dollars ($25,000). All expenditures shall be reported to the board of directors at its next regular meeting.

(2) Notwithstanding paragraph (1), with the approval of the board, the general manager of the East Bay Regional Park District, the general manager of the Midpeninsula Regional Open Space District, and the general manager of the Sonoma County Agricultural Preservation and Open Space District may bind those districts, in accordance with board policy, and without advertising, for the payment for supplies, materials, labor, or other valuable consideration for any purpose, including the new construction of any building, structure, or improvement in amounts not exceeding twenty-five thousand dollars ($25,000). All expenditures shall be reported to the board of directors at its next regular meeting.

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 statutory changes necessary to authorize certain park or open-space districts to exchange or convey interests in real property and take specified actions with respect to payment for supplies, materials, labor or other consideration, at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER  24

An act to amend Section 5514 of, and to add Sections 5506.12 and 5533.7 to, the Public Resources Code, relating to parks and recreation.
The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares all of the following:
(a) There is increasing pressure to develop the pristine natural, open-space, and agricultural areas of Ventura County.
(b) Formation of a regional open-space district in Ventura County is critically needed to help address the unresolved needs and development pressures in the Ventura County area with respect to the preservation of open-space, natural, and agricultural areas, and local and regional parks and recreation facilities.

SEC. 2. Section 5506.12 is added to the Public Resources Code, to read:
5506.12. (a) A proceeding for the formation of a regional district in Ventura County may be initiated by resolution of the Board of Supervisors of the County of Ventura, adopted after a hearing noticed in accordance with Section 6064 of the Government Code, in lieu of the petition and related proceedings specified in this article.
(b) The resolution shall do all of the following:
1. Name the proposed regional district and state the reasons for forming it.
2. Specify that the proposed regional district shall be governed by a board of five directors who shall be: (A) elected in accordance with this article; (B) appointed by the board of supervisors; or (C) the members of the board of supervisors acting ex officio. The method of selecting directors shall be determined by the terms of the regional district measure placed before the voters.
3. Specify the territory to be included in the proposed regional district. The territory of the proposed regional district may include all or part of the territory within Ventura County, and may include incorporated cities within that territory.
4. Specify the boundaries of the five wards or subdistricts drawn pursuant to Section 5515 or according to the boundaries of existing supervisorial districts.
5. Specify that the regional district shall not have, and may not exercise, the power of eminent domain pursuant to Section 5542 or any other provision of law.
6. Describe the methods by which the proposed regional district will be financed.
7. Call, and give notice of, an election to be held in the proposed regional district pursuant to subdivision (b) of Section 5514.
(8) Prescribe any other matters necessary to the formation of the proposed regional district.

(c) For purposes of this section, “regional district” means an open-space district formed pursuant to this section that contains all or part of the territory within Ventura County, and may include all incorporated cities within that territory.

SEC. 3. Section 5514 of the Public Resources Code is amended to read:

5514. (a) The board of supervisors of the county having the largest area within the proposed district shall, if the petition, after the hearing, has been approved, in whole or in part, have jurisdiction to proceed further with the calling of an election within the boundaries of the proposed district as described in the resolution passed at the conclusion of the hearing, and shall, either as a part of the same resolution or by a later resolution, call an election within the proposed district for the purpose of determining whether the district shall be created and established and, if necessary, for the purpose of electing the first board of directors therefor in case the district is created.

(b) In a district proposed to be formed pursuant to Section 5506.5, 5506.11, or 5506.12, the resolution calling the election may provide for a single ballot measure or separate ballot measures on the question of formation, establishment of an appropriations limit authorized by Section 4 of Article XIII B of the California Constitution, the authority to tax pursuant to Section 5566, and the authority to sell bonds pursuant to Section 5568, or any combination of those questions.

SEC. 4. Section 5533.7 is added to the Public Resources Code, to read:

5533.7. (a) Notwithstanding Sections 5533 and 5533.5, with respect to a district formed pursuant to Section 5506.12 where the board of directors of the district is appointed by the board of supervisors of the county in which the district is located, the terms of office of each member of the board of directors is four years, commencing at noon on the first Monday in January, except as provided in subdivision (b).

(b) Within 30 days after the date a district is formed pursuant to this chapter, the board of supervisors of the county in which the district is formed shall appoint five persons to the board of directors of the district. Each person appointed by the board of supervisors to serve on the board of directors of the district shall be a registered voter in the district. The persons appointed to the initial board of directors shall hold their first meeting not later than the first Monday that falls after 45 days after the date of formation of the district. At the first meeting of the board, the directors shall classify themselves by lot into two classes of members. The term of office of the first class with three members shall expire at noon on the first Monday in January that is closest to the fourth year after
the appointments made pursuant to this subdivision. The term of office of the class with two members shall expire at noon on the first Monday in January that is closest to the second year after the appointments made pursuant to this subdivision.

(c) Any vacancy in the office of a member of the board of directors of the district appointed pursuant to this section shall be filled by the board of supervisors of the county in which the district is formed. Any person appointed to fill a vacant office shall fill the balance of the unexpired term.

CHAPTER 25

An act to amend Sections 51121 and 51122 of, and to add Section 51124 to, the Education Code, relating to parental involvement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 17, 2002. Filed with Secretary of State April 17, 2002.]

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

SECTION 1. Section 51121 of the Education Code is amended to read:

51121. (a) The Nell Soto Parent/Teacher Involvement Program is hereby established for the purpose of providing grant awards to schools in which a majority of teachers and parents agree to strengthen the communication between schools and parents as a means of improving pupil academic achievement.

(b) Any school district or charter school that maintains kindergarten or any of grades 1 to 12, inclusive, the California School for the Deaf, or the California School for the Blind may operate a parent/teacher involvement program at any schoolsite that meets each of the requirements set forth in subdivision (c).

(c) The program shall include all of the following elements:

(1) At least 50 percent of the teachers employed at the schoolsite voluntarily agree to participate in either periodic visits to the homes of their pupils or in community meetings that are held at times and locations that are convenient to parents.

(2) At least 50 percent of the parents or guardians of pupils enrolled at the schoolsite have voluntarily signed a parent/teacher/pupil compact in which parents agree to participate in periodic home visits or community meetings. The compact shall also encompass the elements
of the parent involvement policy adopted by the State Board of Education on September 9, 1994.

(3) A teacher or teaching paraprofessional who participates in the program shall receive training in strategies for communicating effectively with parents and in conducting periodic home visits or community meetings. These strategies may include providing parents with guidance in how to reinforce educational objectives with their children at home.

(4) Teachers and teaching paraprofessionals shall be compensated for their participation in home visits or community meetings at an hourly rate comparable to their regular base salary.

(5) A certification that participating teachers or participating teachers paired with teaching paraprofessionals will conduct home visits to a substantial percentage of the enrolled pupils whose parents or guardians have voluntarily signed a parent/teacher/pupil compact at least once annually or that, in the case of high schools or middle schools that participate in the program, will hold at least monthly community-based meetings at various sites located throughout the attendance area of the high school or middle school.

(d) For purposes of this article, “teaching paraprofessional” has the same meaning as in Section 44392.

(e) For purposes of this section, “community meetings” are periodic public meetings held by participating schools for the purpose of strengthening communication between the schools and parents for the improvement of pupil academic achievement.

SEC. 2. Section 51122 of the Education Code is amended to read:

51122. (a) The Superintendent of Public Instruction shall allocate funds to school districts and charter schools that have certified to the superintendent that they satisfy the conditions of subdivision (c) of Section 51121. A qualifying school with a pupil enrollment of fewer than 500 pupils shall receive a grant of up to fifteen thousand dollars ($15,000). A qualifying school with pupil enrollment of 500 to 799 pupils, inclusive, shall receive a grant of twenty thousand dollars ($20,000). A qualifying school with pupil enrollment of 800 to 1,499 pupils, inclusive, shall receive a grant of thirty thousand dollars ($30,000). A qualifying school with pupil enrollment of 1,500 or more pupils shall receive a grant of thirty-five thousand dollars ($35,000).

(b) The funds received pursuant to this article may be used to compensate teachers and teaching paraprofessionals, to provide training to teachers and teaching paraprofessionals, and to defray other costs associated with the implementation of the Nell Soto Parent/Teacher Involvement Program. A qualifying school shall be funded in the order of receipt of an approval certification until all funds available for the program have been apportioned.
(c) The total amount of the grants allocated pursuant to this section shall not exceed the total amount appropriated for the purposes of this section.

(d) The Superintendent of Public Instruction shall allocate funding appropriated for this program to the California School for the Deaf, the California School for the Blind, and schools ranked in the bottom five deciles on the Academic Performance Index and shall give funding priority to the California School for the Deaf, the California School for the Blind, and schools ranked in the lowest two deciles.

1. For the first year of participation in the program, a school is eligible to receive a full grant award as listed in subdivision (a).

2. For the second year of participation in the program, a school is eligible to receive a grant award not greater than three-fourths of the appropriate amount listed in subdivision (a) and shall provide, from local funds, one-fourth of the appropriate amount listed in subdivision (a).

3. For the third year of participation in the program, a school is eligible to receive a grant award not greater than one-half of the appropriate amount listed in subdivision (a) and shall match state funding with the same amount of local funds.

4. A school is eligible for no more than three grant awards. A school that received a grant during the 2000–01 school year shall be considered to have completed a first year of participation in the program and is eligible to apply as a second year school.

(e) Priority for home visits shall be given to low-performing pupils.

(f) Schools may be eligible for funding pursuant to this article for each year from funds appropriated therefor in the annual Budget Act or in another enactment.

(g) The Superintendent of Public Instruction may use up to seventy-five thousand dollars ($75,000), to the extent funds are appropriated in the annual Budget Act or other enactment for purposes of the Nell Soto Parent/Teacher Involvement Program, to administer the program.

SEC. 3. Section 51124 is added to the Education Code, to read:

51124. The Superintendent of Public Instruction shall evaluate the program established pursuant to this article regarding the impact of the program on improving academic achievement and increasing the involvement of parents in their children’s education. The sum of seventy-five thousand dollars ($75,000) from the appropriation made for the program established pursuant to this article for the 2001–02 fiscal year may be used by the Superintendent of Public Instruction for this evaluation. This evaluation shall be completed on or before January 1, 2003.
SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement these program changes during the current school year and use the funds appropriated in the Budget Act of 2001 for the purposes of the Nell Soto Parent/Teacher Involvement Program, it is necessary that this act take effect immediately.

CHAPTER 26

An act to amend Sections 50802.5, 51455, 51479, and 53130 of, to add Sections 50675.13, 50675.14, 51451.5, 51453, and 51505 to, and to add Part 11 (commencing with Section 53500) to Division 31 of, the Health and Safety Code, relating to financing housing programs by providing the funds necessary therefor through the issuance and sale of bonds of the State of California and by providing for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 22, 2002. Filed with Secretary of State April 22, 2002.]

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

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

(1) Approximately 220,000 housing units need to be produced in California each year to meet demand. Yet only four times in the last 20 years has the production target been reached.

(2) While the national homeownership rate has reached a record high, the rate in California is 10 percent below the national average, and ranks 48th in the nation.

(3) There is an extreme shortage of rental housing in California, particularly for lower income renters. Rental housing construction is primarily at the high end of the rental market. The statewide rental vacancy rate is fourth lowest in the nation.

(4) Over one-third of all renter families statewide pay over half their incomes in rent. Over one-half of all low-income renter families pay over half their incomes in rent, while almost three out of four very low income renter families pay over half their incomes in rent. It requires 106 hours per week at a minimum wage job to afford the average two-bedroom unit in California.
(5) One out of every eight housing units statewide is in substandard condition, and one of every eight metropolitan California rentals is overcrowded. Threats to resident safety and displacement and costs of repairs and rehabilitation can be mitigated with more effective local housing code enforcement and compliance activities. Moreover, increased availability of public funds to help finance rehabilitation and repairs will result in the preservation of existing housing rather than replacement of that housing at higher construction costs.

(6) The Department of Housing and Community Development estimates that there are over 360,000 homeless individuals in California, and other data discloses that one-third of the homeless population, and the segment increasing most rapidly, are families with children.

(7) More than 147,000 rental units built in this state prior to 1980 under the Section 236, Section 221(d)(3), and Section 8 programs of the United States Department of Housing and Urban Development and the Section 515 program of the federal Farmers Home Administration are at risk of conversion to higher rent housing or condominium units. Loss of this housing stock will displace thousands of elderly, disabled, and struggling families with no place to go.

(8) The basic housing goal for state government pursuant to subdivision (b) of Section 50003 of the Health and Safety Code is to provide a decent home and suitable living environment for every California family.

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

(1) There is an urgent need to provide affordable housing to meet the increasingly unfulfilled housing needs of this state.

(2) There is an immediate need to reaffirm the commitment to the official housing policy of the state and provide sufficient financial resources to meet this commitment over a reasonable period of time.

(3) There is a critical need to provide financial assistance to do all of the following:

(A) Purchase, construct, and rehabilitate emergency shelters and transitional housing for homeless families and individuals.

(B) Construct rental housing for families and individuals, including the special housing needs of seniors, the disabled, and farmworkers.

(C) Preserve and rehabilitate affordable homes and rental housing.

(D) Provide home purchase assistance for first-time homebuyers.

SEC. 1.5. Section 50675.13 is added to the Health and Safety Code, to read:

50675.13. (a) If the Housing and Emergency Shelter Trust Fund Act of 2002 is approved by the voters, with respect to funds appropriated pursuant to paragraph (1) of subdivision (a) of Section 53533, the department shall award reasonable priority points for projects to prioritize any of the following:
(1) Infill development.

(2) Adaptive reuse in existing developed areas served with public infrastructure.

(3) Projects in proximity to public transit, public schools, parks and recreational facilities, or job centers.

(b) The department may utilize other factors in rural areas to promote infill development.

SEC. 1.6. Section 50675.14 is added to the Health and Safety Code, to read:

50675.14. If the Housing and Emergency Shelter Trust Fund Act of 2002 is approved by the voters, with respect to funds appropriated to the Multifamily Housing Program pursuant to paragraph (3) of subdivision (a) of Section 53533, the department shall consider, commencing in the second year of the funding, the feasibility and appropriateness of modifying its regulations to increase the use of funds by small projects. In doing this, the department shall consider its operational needs and prior history of funding supportive housing facilities.

SEC. 1.7. Section 50802.5 of the Health and Safety Code is amended to read:

50802.5. (a) The department shall issue a notice or notices of funding availability to potential applicants and designated local boards, as applicable, as soon as possible after funding becomes available for the Emergency Housing and Assistance Program. Each notice of funding availability shall indicate the amounts and types of funds available under this program.

(b) A designated local board, or the department in the absence of a designated local board, shall solicit, receive, and select among applications for grants pursuant to this chapter from eligible organizations through an open, fair, and competitive process. These applications shall be ranked and selected by a designated local board, or by the department in the absence of a designated local board.

(c) Notwithstanding subdivision (b), the department may restrict a designated local board from selecting any application requesting a grant for capital developments if the amount requested by the application exceeds the limits determined by the department, and the department determines that the designated local board is not qualified to evaluate the application. The department shall establish criteria for distinguishing between a designated local board that may be so restricted and a designated local board that would not be so restricted. A designated local board may appeal to the director, or to the director’s designee, any decision made by the department pursuant to this subdivision. The department, by June 30, 2001, shall consider increasing the maximum grant limits to three hundred thousand dollars ($300,000) for operating grants and five hundred thousand dollars ($500,000) for capital grants.
(d) The department, or the designated local board, as applicable, shall not grant more than one million dollars ($1,000,000) to any eligible organization within a region in a funding round even if the eligible organization has filed multiple applications.

(e) The department shall determine requirements of the grant contract and shall contract directly with the grant recipient. The department shall not delegate this function to the designated local boards. Eligible designated local boards may use a percentage of the regional award funds to defray administrative costs. The department shall establish this percentage, which shall not exceed 2 percent.

(f) The designated local board shall regulate the performance of any grant contract within their region, subject to department oversight and requirements established by the department.

(g) The department shall not perform a secondary rating or ranking review on those grant applications that have been solicited, received, and selected by a designated local board according to a local ranking criterion that has been approved by the department.

(h) Notwithstanding any other provision of this chapter, if the Housing and Emergency Shelter Trust Fund Act of 2002 is approved by the voters, funds allocated pursuant to paragraph (2) of subdivision (a) of Section 53533 shall be administered by the department in a manner consistent with the restrictions and authorizations contained in provision 3 of Item 2240-105-0001 of the Budget Act of 2000, except that any appropriations in that item shall not apply. The competitive system used by the department shall incorporate priorities set by the designated local boards and their input as to the relative merits of submitted applications from within the designated local board’s county in relation to those priorities.

In addition, the funding limitations contained in this section shall not apply to the appropriation in that budget item.

SEC. 2. Section 51451.5 is added to the Health and Safety Code, to read:

51451.5. The Homebuyer Down Payment Assistance Program of 2002 is hereby established, to provide assistance in the amount of the applicable school facility fee on affordable housing developments. The Homebuyer Down Payment Assistance Program of 2002 shall, with funds provided by the Housing and Emergency Shelter Trust Fund Act of 2002 (Part 11 (commencing with Section 53500)), provide the following assistance:

(a) Downpayment assistance to the purchaser of any newly constructed residential structure in a development project in an economically distressed area in the amount of school facility fees paid pursuant to Section 65995.5 or 65995.7 of the Government Code, less the amount that would be required pursuant to subdivision (b) of Section
65995 of the Government Code, notwithstanding Sections 65995.5 and 65995.7 of the Government Code, if all of the following conditions are met:

(1) The development project is located in a county with an unemployment rate that equals or exceeds 125 percent of the state unemployment rate.

(2) Five hundred or more residential structures have been constructed in the county during 2001.

(3) A building permit for an eligible residential structure in the development project is issued by the local agency on or after January 1, 2002.

(4) The eligible residential structure is to be owner occupied for at least five years. If a structure is owner occupied for fewer than five years, the recipient of the assistance shall repay the School Facilities Fee Assistance Fund the amount of the assistance, on a prorated basis.

(5) The sales price of the eligible residential structure does not exceed 175 percent of the median sales price of residential structures in the county during the average of the previous five years.

(b) Downpayment assistance to the purchaser of any newly constructed residential structure in a development project in the aggregate amount of school facility fees paid pursuant to one, all, or any combination of subdivision (b) of Section 65995, Section 65995.5, or Section 65995.7 of the Government Code for the eligible residential structure if all of the following conditions are met:

(1) The assistance is provided to a qualified first-time homebuyer pursuant to Section 50068.5.

(2) The qualified first-time homebuyer does not exceed the lower or moderate-income requirements in Section 50093.

(3) A building permit for an eligible residential structure in the development project is issued by the local agency on or after January 1, 2002.

(4) The eligible residential structure is to be owner occupied for at least five years. If a structure is owner occupied for fewer than five years, the recipient of the assistance shall repay the School Facilities Fee Assistance Fund the amount of the assistance, on a prorated basis.

SEC. 3. Section 51453 is added to the Health and Safety Code, to read:

51453. Notwithstanding Section 51452, the sum of fifty million dollars ($50,000,000) transferred to the School Facilities Fee Assistance Fund pursuant to subparagraph (A) of paragraph (7) of subdivision (a) of Section 53533 is continuously appropriated to the department for allocation for the agency for administrative costs and to make payments to purchasers of newly constructed residential structures pursuant to Section 51451.5 from that fund for a period of four years, as follows:
(a) Twenty-five million dollars ($25,000,000) shall be available for the program set forth in subdivision (a) of Section 51451.5, except that if less than 50 percent of these funds are expended within 24 months, all or part of those funds shall be available for the program set forth in subdivision (b) of Section 51451.5 at the discretion of the executive director of the agency.

(b) Twenty-five million dollars ($25,000,000) shall be available for the program set forth in subdivision (b) of Section 51451.5, except that if less than 50 percent of these funds are expended within 24 months, all or part of those funds shall be available for the program set forth in subdivision (a) of Section 51451.5 at the discretion of the executive director of the agency.

(c) If after 48 months, more than 20 percent of the funds identified in subdivisions (a) and (b) are not expended, the executive director of the agency may make all or part of those funds available to the California Homebuyer’s Downpayment Assistance Program, as authorized under Chapter 11 (commencing with Section 51500).

(d) All repayments of disbursed funds pursuant to this chapter or any interest earned from the investment in the Surplus Money Investment Fund or any other moneys accruing to the fund from whatever source shall be returned to the fund and is available for allocation by the agency to the program established pursuant to Section 51451.5.

SEC. 4. Section 51455 of the Health and Safety Code is amended to read:

51455. (a) Except as provided in subdivision (b), Sections 51450, 51451, 51452, and 51454 shall not be operative on and after January 1, 2002.

(b) Except as provided in Section 51453, the School Facilities Fee Assistance Fund established by Section 51452 and the programmatic authority necessary to operate the programs authorized by Section 51451 shall continue on and after January 1, 2002, only with respect to any repayment obligation pertaining to that assistance or to any regulatory agreement imposed as a condition of that assistance.

SEC. 5. Section 51479 of the Health and Safety Code is amended to read:

51479. In administering a program for the preservation of multifamily housing hereunder, the agency may segregate funds available for these purposes into separate accounts as necessary to reflect the different types of assistance authorized by this chapter.

SEC. 6. Section 51505 is added to the Health and Safety Code, to read:

51505. (a) In addition to the downpayment assistance program authorized by Section 51504, and notwithstanding any provision of Section 51504 to the contrary, the agency shall provide downpayment
assistance from the funds set aside pursuant to subparagraph (D) of paragraph (7) of subdivision (a) of Section 53533 for the purposes of the portion of the Extra Credit Teacher Home Purchase Program provided for in subdivision (g) of Section 8869.84 of the Government Code and any other school personnel home ownership assistance programs as set forth by the California Debt Limit Allocation Committee, as operated by the agency. Notwithstanding the foregoing, the agency may, but is not required to, provide downpayment assistance pursuant to this section to any local issuer participating in the Extra Credit Teacher Home Purchase Program and any other school personnel home ownership assistance programs as set forth by the California Debt Limit Allocation Committee.

(b) Downpayment assistance for purposes of this section shall be subject to, and shall meet the requirements of, the Extra Credit Teacher Home Purchase Program and any other school personnel home ownership programs as set forth by the California Debt Limit Allocation Committee, and shall include, but not be limited to, deferred payment, low interest rate loans where payment of principal and interest is deferred until the time that the home is sold or refinanced. This downpayment assistance shall meet the requirements of subdivisions (d) and (e) of Section 51504.

(c) Loans made pursuant to this section may include a provision whereby interest, principal, or both, of the loan is forgiven upon conditions to be established by the agency, or any other provision designed to carry out the purposes of the Extra Credit Teacher Home Purchase Program and any other school personnel home ownership programs as set forth by the California Debt Limit Allocation Committee.

(d) Downpayment assistance pursuant to this section shall not exceed the greater of seven thousand five hundred dollars ($7,500) or 3 percent of the home sales price.

SEC. 7. Section 53130 of the Health and Safety Code is amended to read:

53130. (a) Moneys deposited in the Roberti Affordable Housing Fund from the sale of bonds pursuant to Part 9 (commencing with Section 53150) shall be allocated for expenditure in accordance with the following schedule:

1. Two hundred million dollars ($200,000,000) shall be transferred to the Rental Housing Construction Fund to be expended for the programs authorized by Chapter 9 (commencing with Section 50735) of Part 2, except Sections 50738.5 and 50745.1.

2. Twenty-five million dollars ($25,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for the purpose
of making deferred-payment loans to acquire and rehabilitate residential hotels, as authorized by Section 50670.

(3) Twenty-five million dollars ($25,000,000) shall be transferred to the Emergency Housing and Assistance Fund to be expended for the programs authorized by Chapter 11.5 (commencing with Section 50800) of Part 2.

(4) Fifteen million dollars ($15,000,000) shall be transferred to the Family Housing Demonstration Account to be expended for the programs authorized by Chapter 15 (commencing with Section 50880) of Part 2 of Division 31 of the Health and Safety Code.

(5) Ten million dollars ($10,000,000) shall be transferred to the department for expenditure for the development of migrant farm labor centers authorized by Chapter 8.5 (commencing with Section 50710) of Part 2 of Division 31 of the Health and Safety Code.

(6) Twenty-five million dollars ($25,000,000) shall be transferred to the Home Purchase Assistance Fund to be expended for the programs authorized by Chapter 6.8 (commencing with Section 51341) of Part 2 of Division 31 of the Health and Safety Code.

(b) Moneys deposited in the Roberti Affordable Housing Fund from the sale of bonds pursuant to Part 10 (commencing with Section 53190) shall be allocated for expenditure in accordance with the following schedule:

(1) One hundred million dollars ($100,000,000) shall be transferred to the Rental Housing Construction Fund to be expended for the programs authorized by Chapter 9 (commencing with Section 50735) of Part 2, except Sections 50738.5 and 50745.1.

(2) Fifteen million dollars ($15,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for the purpose of making deferred-payment loans to acquire and rehabilitate residential hotels, as authorized by Section 50670.

(3) Ten million dollars ($10,000,000) shall be transferred to the Emergency Housing and Assistance Fund to be expended for the programs authorized by Chapter 11.5 (commencing with Section 50800) of Part 2.

(4) Twenty-five million dollars ($25,000,000) shall be transferred to the Home Purchase Assistance Fund to be expended for the programs authorized by Chapter 6.8 (commencing with Section 51341) of Part 2.

(c) No portion of any of the moneys allocated pursuant to this section may be expended for project operating costs, except that this section does not preclude expenditures for operating costs from reserves required to be maintained by or on behalf of the project sponsor.

SEC. 8. Part 11 (commencing with Section 53500) is added to Division 31 of the Health and Safety Code, to read:
PART 11. HOUSING AND EMERGENCY SHELTER TRUST FUND ACT OF 2002

CHAPTER 1. GENERAL PROVISIONS

53500. This part shall be known and may be cited as the Housing and Emergency Shelter Trust Fund Act of 2002.

53501. As used in this part, the following terms have the following meanings:

(a) “Committee” means the Housing Finance Committee created pursuant to Section 53524.

(b) “Fund” means the Housing and Emergency Shelter Trust Fund created pursuant to Section 53520.

CHAPTER 2. HOUSING AND EMERGENCY SHELTER TRUST FUND

53520. The proceeds of bonds issued and sold pursuant to this part shall be deposited in the Housing and Emergency Shelter Trust Fund, which is hereby created. Money in the fund shall be allocated and utilized in accordance with Chapter 4 (commencing with Section 53533).

CHAPTER 3. FISCAL PROVISIONS

53521. Bonds in the total amount of two billion one hundred million dollars ($2,100,000,000) exclusive of refunding bonds, or so much thereof as is determined necessary and feasible by the committee in order to effectuate this part or to conduct an effective sale, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this part and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds shall, when sold, be and constitute a valid legally and binding obligation of the state, and the full faith and credit of the state is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

53522. Any bonds issued and sold pursuant to this part may be refunded by the issuance of refunding bonds in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code. Approval by the electors of the state for the issuance of bonds described in this chapter shall include the approval of the issuance of any bonds issued to refund any bonds originally issued or any previously issued refunding bonds.
53523. (a) The bonds authorized by this part shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code) and all of the other provisions of that law apply to the bonds and to this part and are hereby incorporated in this part as though set forth in full in this part.

(b) Pursuant to the State General Obligation Bond Law, the cost of bond issuance shall be paid out of the bond proceeds. These costs shall be shared proportionally by each program funded through this chapter.

53524. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this part, the Housing Finance Committee is hereby created. For purposes of this part, the Housing Finance Committee is “the committee” as that term is used in the State General Obligation Bond Law. The committee consists of the Controller, the Treasurer, the Director of Finance, the Secretary of the Business, Transportation and Housing Agency, the Director of Housing and Community Development, and the Executive Director of the California Housing Finance Agency, or their designated representatives. The Treasurer shall serve as the chairperson of the committee. A majority of the committee may act for the committee.

(b) For purposes of the State General Obligation Bond Law, the department is designated the “board” for programs administered by the department, and the agency is the “board” for programs administered by the agency.

53525. Upon request of the board stating that funds are needed for the purposes of this chapter, the committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this part in order to carry out the actions specified in Chapter 4 (commencing with Section 53533) and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

53526. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year, and it is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act that is necessary to collect that additional sum.

53527. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund, for the purposes of this part, an amount that will equal the total of the following:
(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this part, as the principal and interest become due and payable.

(b) The sum necessary to carry out the provisions of Section 53528, appropriated without regard to fiscal years.

53528. For the purposes of carrying out this part, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds that have been authorized by the committee to be sold for the purpose of carrying out this part. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund from money received from the sale of bonds for the purpose of carrying out this part.

53529. Notwithstanding any other provision of this part, or of the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this part that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

53530. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for the purposes of carrying out this part. The amount of the request shall not exceed the amount of unsold bonds that the committee has by resolution authorized to be sold for the purpose of carrying out this part. The board shall execute any documents that are required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this part.

53531. All money deposited in the fund that is derived from premiums and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

53532. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this part are not "proceeds of taxes" as that term is used in Article XIII B of the
California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

CHAPTER 4. ALLOCATION OF HOUSING BOND REVENUES

53533. (a) Money deposited in the fund from the sale of bonds pursuant to this part shall be allocated for expenditure in accordance with the following schedule:

(1) Nine hundred ten million dollars ($910,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2, except for the following:

(A) Fifty million dollars ($50,000,000) shall be transferred to the Preservation Opportunity Fund and, notwithstanding Section 13340 of the Government Code, is continuously appropriated without regard to fiscal years for the preservation of at-risk housing pursuant to enabling legislation.

(B) Twenty million dollars ($20,000,000) shall be used for nonresidential space for supportive services, including, but not limited to, job training, health services, and child care within, or immediately proximate to, projects to be funded under the Multifamily Housing Program. This funding shall be in addition to any applicable per-unit or project loan limits and may be in the form of a grant. Service providers shall ensure that services are available to project residents on a priority basis over the general public.

(C) Twenty-five million dollars ($25,000,000) shall be used for matching grants to local housing trust funds pursuant to enabling legislation.

(D) Fifteen million dollars ($15,000,000) shall be used for student housing through the Multifamily Housing Program, subject to the following provisions:

(i) The department shall give first priority for projects on land owned by a University of California or California State University campus. Second priority shall be given to projects located within one mile of a University of California or California State University campus that is suffering from a severe shortage of housing and limited availability of developable land as determined by the department. Those determinations shall be set forth in the Notice of Funding Availability and shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code.

(ii) All funds shall be matched on a one-to-one basis from private sources or by the University of California or California State University. For the purposes of this subparagraph, “University of California” includes the Hastings College of the Law.
(iii) Occupancy for the units shall be restricted to students enrolled on a full-time basis in the University of California or California State University.

(iv) Income eligibility pursuant to the Multifamily Housing Program shall be established by verification of the combined income of the student and his or her family.

(v) Any funds not used for this purpose within 24 months of the date that the funds are made available shall be awarded pursuant to subdivision (a) for the Downtown Rebound Program as set forth in paragraph (1) of subdivision (c) of Section 50898.2.

(E) Any funds not encumbered for the purposes set forth in this paragraph, except subparagraph (D), within 30 months of availability shall revert to the Housing Rehabilitation Loan Fund created by Section 50661 for general use in the Multifamily Housing Program.

(F) If the enabling legislation for any program specified in this paragraph fails to be enacted into law in the 2001–02 Regular Session of the Legislature, the specified allocation for that program shall be void and the funds shall revert for general use in the Multifamily Housing Program.

(2) One hundred ninety-five million dollars ($195,000,000) shall be transferred to the Emergency Housing and Assistance Fund to be expended for the Emergency Housing and Assistance Program authorized by Chapter 11.5 (commencing with Section 50800 of Part 2).

(3) One hundred ninety-five million dollars ($195,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2, to be used for supportive housing projects for individuals and households moving from emergency shelters or transitional housing or those at risk of homelessness. The criteria for selecting projects should give priority to supportive housing for people with disabilities who would otherwise be at high risk of homelessness where the applications represent collaboration with programs that meet the needs of the person’s disabilities. The department may provide for higher per-unit loan limits as reasonably necessary to provide and maintain rents affordable to those individuals and households. For purposes of this paragraph, “supportive housing” means housing with no limit on length of stay, that is occupied by the target population, as defined in subdivision (d) of Section 53260, and that is linked to onsite or offsite services that assist the tenant to retain the housing, improve his or her health status, maximize his or her ability to live, and, when possible, work in the community.

(4) Two hundred million dollars ($200,000,000) shall be transferred to the Joe Serna, Jr. Farmworker Housing Grant Fund to be expended for
farmworker housing programs authorized by Chapter 3.2 (commencing with Section 50517.5) of Part 2, except for the following:

(A) Twenty-five million dollars ($25,000,000) shall be used for projects that serve migratory agricultural workers as defined in subdivision (i) of Section 7602 of Title 25 of the California Code of Regulations.

(B) Twenty million dollars ($20,000,000) shall be used for developments that also provide health services to the residents. Recipients of these funds shall be required to provide ongoing monitoring of funded developments to ensure compliance with the requirements of the Joe Serna, Jr. Farmworker Housing Grant Program. Projects receiving funds through this allocation shall be ineligible for funding through the Joe Serna, Jr. Farmworker Housing Grant Program.

(C) Any funds not encumbered for the purposes set forth in this paragraph within 30 months of availability shall revert for general use in the Joe Serna, Jr. Farmworker Housing Grant Program.

(5) Two hundred five million dollars ($205,000,000) shall be transferred to the Self-Help Housing Fund. Notwithstanding Section 13340 of the Government Code and Section 50697.1, these funds are hereby continuously appropriated without regard to fiscal years to the department to be expended for the purposes of the CalHome Program authorized by Chapter 6 (commencing with Section 50650) of Part 2, except for the following:

(A) Seventy-five million dollars ($75,000,000) shall be transferred to the Building Equity and Growth in Neighborhoods Fund to be used for the Building Equity and Growth in Neighborhoods (BEGIN) Program pursuant to enabling legislation.

(B) Five million dollars ($5,000,000) shall be used to provide grants to cities, counties, cities and counties, and nonprofit organizations to provide grants for lower income tenants with disabilities for the purpose of making exterior modifications to rental housing in order to make that housing accessible to persons with disabilities. For the purposes of this subparagraph, “exterior modifications” includes modifications that are made to entryways or to common areas of the structure or property. The program provided for under this subparagraph shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code.

(C) Ten million dollars ($10,000,000) shall be expended for construction management under the California Self-Help Housing Program pursuant to subdivision (b) of Section 50696.

(D) Any funds not encumbered for the purposes set forth in this paragraph within 30 months of availability shall revert for general use in the CalHome Program.
(E) If the enabling legislation for any program specified in this paragraph fails to be enacted into law in the 2001–02 Regular Session of the Legislature, the specified allocation for that program shall be void and the funds shall revert for general use in the CalHome Program.

(6) Five million dollars ($5,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for capital expenditures in support of local code enforcement and compliance programs. This allocation shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code. If the moneys allocated pursuant to this paragraph are not expended within three years after being transferred, the department may, in its discretion, transfer the moneys to the Housing Rehabilitation Loan Fund to be expended for the Multifamily Housing Program.

(7) Two hundred ninety million dollars ($290,000,000) shall be transferred to the Self-Help Housing Fund. Notwithstanding Section 50697.1, these funds are hereby continuously appropriated to the agency to be expended for the purposes of the California Homebuyer’s Downpayment Assistance Program authorized by Chapter 11 (commencing with Section 51500) of Part 3, except for the following:

(A) Fifty million dollars ($50,000,000) shall be transferred to the School Facilities Fee Assistance Fund as provided by subdivision (a) of Section 51453 to be used for the Homebuyer Down Payment Assistance Program of 2002 established by Section 51451.5.

(B) Eighty-five million dollars ($85,000,000) shall be transferred to the California Housing Loan Insurance Fund to be used for purposes of Part 4 (commencing with Section 51600).

(C) Twelve million five hundred thousand dollars ($12,500,000) shall be reserved for downpayment assistance to low-income first-time homebuyers who, as documented to the agency by a nonprofit organization certified and funded to provide homeownership counseling by a federally funded national nonprofit corporation, is purchasing a residence in a community revitalization area targeted by the nonprofit organization and who has received homeownership counseling from the nonprofit organization.

(D) Twenty-five million dollars ($25,000,000) shall be used for downpayment assistance pursuant to Section 51505. After 18 months of availability, if the agency determines that the funds set aside pursuant to this section will not be utilized for purposes of Section 51505, these funds shall be available for the general use of the agency for the purposes of the California Homebuyer’s Downpayment Assistance Program, but may also continue to be available for the purposes of Section 51505.
(E) Funds not utilized for the purposes set forth in subparagraphs (B) and (C) within 30 months shall revert for general use in the California Homebuyer’s Downpayment Assistance Program.

(8) One hundred million dollars ($100,000,000) shall be transferred to the Jobs Housing Improvement Account to be expended as capital grants to local governments for increasing housing pursuant to enabling legislation. If the enabling legislation fails to become law in the 2001–02 Regular Session of the Legislature, the specified allocation for this program shall be void and the funds shall revert for general use in the Multifamily Housing Program as specified in paragraph (1) of subdivision (a).

(b) No portion of the money allocated pursuant to this section may be expended for project operating costs, except that this section does not preclude expenditures for operating costs from reserves required to be maintained by or on behalf of the project sponsor.

(c) The Legislature may, from time to time, amend the provisions of law related to programs to which funds are, or have been, allocated pursuant to this section for the purpose of improving the efficiency and effectiveness of the program, or for the purpose of furthering the goals of the program.

(d) The Bureau of State Audits shall conduct periodic audits to ensure that bond proceeds are awarded in a timely fashion and in a manner consistent with the requirements of this part, and that awardees of bond proceeds are using funds in compliance with applicable provisions of this part.

SEC. 9. Sections 1.5 to 8, inclusive, of this act shall become operative upon the adoption by the voters of the Housing and Emergency Shelter Trust Fund Act of 2002, as set forth in Section 8 of this act.

SEC. 10. (a) Section 8 of this act shall be submitted to the voters at the November 5, 2002, statewide general election in accordance with provisions of the Government Code and the Elections Code governing the submission of statewide measures to the voters.

(b) Notwithstanding any other provision of law, all ballots of the election shall have printed thereon and in a square thereof, exclusively, the words: “Housing and Emergency Shelter Trust Fund Act of 2002” and in the same square under those words, the following in 8-point type: “This act provides for the Housing and Emergency Shelter Trust Fund Act of 2002. For the purpose of providing shelters for battered women, clean and safe housing for low-income senior citizens, emergency shelters for homeless families with children, housing with social services for the homeless and mentally ill, repairs and accessibility improvements to apartments for families and handicapped citizens, homeownership assistance for military veterans, and security improvements and repairs to existing emergency shelters, shall the state
create a housing trust fund by issuing bonds totaling two billion one hundred million dollars ($2,100,000,000), paid from existing state funds at an average annual cost of ____ dollars ($____) per year over the ____-year life of the bonds, with the requirement that every city and county is eligible to receive funds as specified in the measure and with all expenditures subject to an independent audit? (The Attorney General shall fill in the blanks in this subdivision with the figures provided by the Legislative Analyst for the annual average cost of the bonds and the number of years required to retire the bonds.)” Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act.

(c) Notwithstanding Sections 13247 and 13281 of the Elections Code, the language in subdivision (b) shall be the only language included in the ballot label for the condensed statement of the ballot title, and the Attorney General shall not supplement, subtract from, or revise that language, except that the Attorney General may include the financial impact summary prepared pursuant to Section 9087 of the Elections Code and Section 88003 of the Government Code. The ballot label is the condensed statement of the ballot title and the financial impact summary.

(d) Where the voting in the election is done by means of voting machines used pursuant to law in the manner that carries out the intent of this section, the use of the voting machines and the expression of the voters’ choice by means thereof are in compliance with this section.

SEC. 11. It is the intent of the Legislature that, to the extent funds authorized by this act are available to local governmental entities, federally recognized California Indian tribes shall also be eligible to apply for those funds, be considered on the merits of the application, and receive and expend those funds.

SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for the submission of Section 8 of this act to the voters at the November 5, 2002, statewide general election, it is necessary that this act take effect immediately.

CHAPTER 27

An act to amend Section 390 of the Streets and Highways Code, relating to highways, and declaring the urgency thereof, to take effect immediately.
The people of the State of California do enact as follows:

SECTION 1. Section 390 of the Streets and Highways Code is amended to read:

390. (a) Route 90 is from Route 1 northwest of the Los Angeles International Airport to Route 91 in Santa Ana Canyon passing near La Habra.

(b) (1) Notwithstanding subdivision (a), the Commission may relinquish to the City of Yorba Linda the portion of Route 90 that is located within the city limits of that city, upon terms and conditions the commission finds to be in the best interests of the state.

(2) A relinquishment under this subdivision shall become effective immediately following the recordation by the County Recorder of the relinquishment resolution containing the commission’s approval of the terms and conditions of the relinquishment.

(3) On and after the effective date of the relinquishment, both of the following shall occur:

(A) The portion of Route 90 relinquished under this subdivision shall cease to be a state highway.

(B) The portion of Route 90 relinquished under this subdivision may not be considered for future adoption under Section 81.

(c) The City of Yorba Linda shall ensure the continuity of traffic flow on the relinquished portion of Route 90, including any traffic signal progression.

(d) For relinquished portions of Route 90, the City of Yorba Linda shall maintain signs directing motorists to the continuation of Route 90.

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

To preserve and protect the public and in order for the City of Yorba Linda to quickly assume and complete various construction and maintenance projects on the applicable portion of State Route 90 that are currently underway or in the planning and development stages, it is necessary that this bill take effect immediately.

CHAPTER 28

An act to amend and repeal Sections 1776 and 1813 of the Labor Code, relating to public contracts.
The people of the State of California do enact as follows:

SECTION 1. Section 1776 of the Labor Code, as amended by Section 2 of Chapter 804 of the Statutes of 2001, is amended to read:

1776. (a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

(1) The information contained in the payroll record is true and correct.

(2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:

(1) A certified copy of an employee’s payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public shall not be given access to the records at the principal office of the contractor.

(c) The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division.
(d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.

(e) Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual’s name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (Section 175a of Title 29 of the United States Code) shall be marked or obliterated only to prevent disclosure of an individual’s name and social security number. A joint labor management committee may maintain an action in a court of competent jurisdiction against an employer who fails to comply with Section 1774. The court may award restitution to an employee for unpaid wages and may award the joint labor management committee reasonable attorney’s fee and costs incurred in maintaining the action. An action under this subdivision may not be based on the employer’s misclassification of the craft of a worker on its certified payroll records. Nothing in this subdivision limits any other available remedies for a violation of this chapter.

(f) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.

(g) The contractor or subcontractor shall have 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars ($25) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

(h) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section.

(i) The director shall adopt rules consistent with the California Public Records Act, (Chapter 3.5 (commencing with Section 6250), Division
7, Title 1, Government Code) and the Information Practices Act of 1977, (Title 1.8 (commencing with Section 1798), Part 4, Division 3, Civil Code) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section.

SEC. 2. Section 1776 of the Labor Code, as amended by Section 3 of Chapter 804 of the Statutes of 2001, is repealed.

SEC. 3. Section 1813 of the Labor Code, as added by Section 6 of Chapter 757 of the Statutes of 1997, is amended to read:

1813. The contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars ($25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of this article. In awarding any contract for public work, the awarding body shall cause to be inserted in the contract a stipulation to this effect. The awarding body shall take cognizance of all violations of this article committed in the course of the execution of the contract, and shall report them to the Division of Labor Standards Enforcement.

SEC. 4. Section 1813 of the Labor Code, as amended by Section 122 of Chapter 485 of the Statutes of 1998, is repealed.

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 29

An act to amend Sections 305, 320.5, 329, 411, 633, 832, 931.5, 1087, 1128, 1177.5, 2606, 13003, 13021.5, 13028, 13050, and 13052.5 of, and to repeal Sections 328, 605.5, and 1141.5 of, the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor April 22, 2002. Filed with Secretary of State April 23, 2002.]
The people of the State of California do enact as follows:

SECTION 1. Section 305 of the Unemployment Insurance Code is amended to read:

305. Regulations for the administration of the functions of the Employment Development Department under this code shall be adopted, amended, or repealed by the Director of Employment Development as provided in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 2. Section 320.5 of the Unemployment Insurance Code is amended to read:

320.5. The director may by authorized regulations prescribe the information required to be reported to the department by employing units under this division and employers subject to withholding tax under Division 6 (commencing with Section 13000) in order to make reports required by the Secretary of Labor, to provide information necessary to administer this code, to estimate unemployment rates or to make other estimates required for the purpose of dispensing or withholding money payments under the Welfare Reform Act of 1971, the Employment Security Amendments of 1970, the Emergency Unemployment Compensation Act of 1971, or the Workforce Investment Act of 1998, and to make any other reports or estimates that may be required by any other state or federal law. The authorized regulations of the director may include requirements for the reporting of employment, unemployment, hours, wages, earnings, the location and nature of the industrial, business, or other activity of each establishment for the conduct of business, performance of services, or industrial operations, and such other requirements as are necessary to comply with this section.

SEC. 3. Section 328 of the Unemployment Insurance Code is repealed.

SEC. 4. Section 329 of the Unemployment Insurance Code is amended to read:

329. (a) The director, or his or her designee, shall serve as Chairperson of the Joint Enforcement Strike Force on the Underground Economy provided for in Executive Order W-66-93. The strike force shall include, but not be limited to, representatives of the Employment Development Department, the Department of Consumer Affairs, the Department of Industrial Relations, the Department of Insurance, and the Office of Criminal Justice Planning. Other agencies that are not part of the administration, such as the Franchise Tax Board, the State Board of Equalization, and the Department of Justice, are encouraged to participate in the strike force.

(b) The strike force shall have the following duties:
(1) To facilitate and encourage the development and sharing of information by the participating agencies necessary to combat the underground economy.

(2) To improve the coordination of activities among the participating agencies.

(3) To develop methods to pool, focus, and target the enforcement resources of the participating agencies in order to deter tax evasion and maximize recoveries from blatant tax evaders and violators of cash-pay reporting laws.

(4) To reduce enforcement costs wherever possible by eliminating duplicative audits and investigations.

(c) In addition, the strike force shall be empowered to:

(1) Form joint enforcement teams when appropriate to utilize the collective investigative and enforcement capabilities of the participating members.

(2) Establish committees and rules of procedure to carry out the activities of the strike force.

(3) To solicit the cooperation and participation of district attorneys and other state and local agencies in carrying out the objectives of the strike force.

(4) Establish procedures for soliciting referrals from the public, including, but not limited to, an advertised telephone hotline.

(5) Develop procedures for improved information sharing among the participating agencies, such as shared automated information data base systems, the use of a common business identification number, and a centralized debt collection system.

(6) Develop procedures to permit the participating agencies to use more efficient and effective civil sanctions in lieu of criminal actions wherever possible.

(7) Evaluate, based on its activities, the need for any statutory change to do any of the following:

(A) Eliminate barriers to interagency information sharing.

(B) Improve the ability of the participating agencies to audit, investigate, and prosecute tax and cash-pay violations.

(C) Deter violations and improve voluntary compliance.

(D) Eliminate duplication and improve cooperation among the participating agencies.

(E) Establish sharable information data bases.

(F) Establish a common business identification number for use by participating agencies.

(G) Establish centralized, automated debt collection services for the participating agencies.

(H) Strengthen civil penalty procedures to allow the strike force to emphasize civil rather than criminal penalties wherever possible.
(d) The strike force shall report to the Governor and the Legislature annually during the period of its existence, by June 30, of each year, regarding its activities.

The report shall include, but not be limited to, all of the following:

1. The number of cases of blatant violations and noncompliance with tax and cash-pay laws identified, audited, investigated, or prosecuted through civil action or referred for criminal prosecution.
2. Actions taken by the strike force to publicize its activities.
3. Efforts made by the strike force to establish an advertised telephone hotline for receiving referrals from the public.
4. Procedures for improving information sharing among the agencies represented on the strike force.
5. Steps taken by the strike force to improve cooperation among participating agencies, reduce duplication of effort, and improve voluntary compliance.
6. Recommendations for any statutory changes needed to accomplish the goals described in paragraph (7) of subdivision (c).

(e) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2006, deletes or extends that date.

SEC. 5. Section 411 of the Unemployment Insurance Code is amended to read:

411. The appeals board, acting as a whole, may promulgate rules or amend or rescind rules pertaining to hearing appeals and other matters falling within its jurisdiction. All such rules, amendments thereto, or repeals thereof, shall be made in accordance with the provisions of Chapter 3.5 (commencing with Section 11340), Part 1, Division 3, Title 2 of the Government Code.

SEC. 6. Section 605.5 of the Unemployment Insurance Code is repealed.

SEC. 7. Section 633 of the Unemployment Insurance Code is amended to read:

633. (a) For purposes of coverage under Part 2 (commencing with Section 2601) of Division 1, “employment” does not include services performed as an intermittent or adjunct instructor at a postsecondary educational institution which meets the requirements of Article 8 (commencing with Section 94900) of Chapter 7 of Part 59 of the Education Code if the intermittent or adjunct instructor and the employing unit enter a written contract with the following provisions:

1. That any federal or state income tax liability shall be the responsibility of the party providing the services.
2. That no disability insurance coverage is provided under the contract.
(3) That the party performing the services certifies that he or she is doing so as a secondary occupation or as a supplemental source of income.

(b) This section shall not apply to services performed under a collective bargaining agreement.

(c) This section shall become operative on January 1, 1997.

SEC. 8. Section 832 of the Unemployment Insurance Code is amended to read:

832. The administrator shall at least annually calculate, as of the close of and for the immediately preceding fiscal year, the experiences of school employers relative to usage of the Unemployment Fund. The calculations shall include tabulations on the experience of each school employer in relation to the expenditures from and the income to the School Employees Fund from the wages paid by the employer. All school employers shall be listed and ranked by ratio of use. The report shall contain comments and recommendations on improvements to the administration, enforcement, and financing of the provisions relative to this article. The report by the administrator on the above shall be made each year to the affected school employer and governing board thereof prior to March 31.

The administrator shall develop experience relationships on all benefits paid to employees via the School Employees Fund and on school employers’ experience related to use and exposure. Data shall relate to numbers of employees and types of programs and shall be calculated as of the close of and for the immediately preceding fiscal year. A report by the administrator on the above shall be made each year to the Legislature prior to March 31 containing comments and recommendations on improvement to administration, enforcement and financing of the provisions relative thereto.

SEC. 9. Section 931.5 of the Unemployment Insurance Code is amended to read:

931.5. (a) Except for Part 2 (commencing with Section 2601) of this division and Division 6 (commencing with Section 13000), any third party which makes a payment included in the term “wages” solely by reason of subdivision (a) of Section 931 shall be the employer with respect to those wages unless the third-party payer notifies the last employer, who is a member of the plan and for whom the services were performed, within 15 days of payment, and provides all of the following information to that last employer:

(1) The name and social security account number of the recipients of the wages paid pursuant to subdivision (a) of Section 931.

(2) The amount of gross wages paid pursuant to subdivision (a) of Section 931.
(b) The special rule prescribed by this subdivision applies to the payment of sick pay made by a third-party payer, such as an insurer, under a contract of insurance pursuant to a multiple employer plan that is obligated to make payments for sick pay to employees of participating employers. If the third-party payer provides the plan with the notification required by subdivision (a) within the time required, the plan, not the third-party payer, shall be treated as the employer under subdivision (a). If within six business days after receipt of the notification the plan similarly notifies the last employer for whom the services are performed, and who is a plan member, that employer, not the plan, shall be required to report and pay the contributions due with respect to the wages.

(c) The employer, as determined by subdivision (a) or (b), shall pay contributions, required by this part, except as provided in Sections 984 and 986, and shall comply with the requirements of subdivision (a) of Section 1088.

(d) When an employer receives the notification prescribed in subdivision (a) or (b), the wages described therein shall be deemed paid when the notice is received.

(e) The director shall not make an assessment pursuant to Section 1126, 1127, or 1137 to assess employee contributions required by Sections 984 and 13020 on third-party sick pay as described in subdivision (a) for the period from January 1, 1987, through the date on which this subdivision became effective.

(f) Except as provided by Section 1176 and Section 19301 of the Revenue and Taxation Code, no refunds may be made for employee contributions required by Sections 984 and 13020 paid on third-party sick pay as described in subdivision (a) for the period from January 1, 1987, through the date on which this subdivision became effective.

SEC. 10. Section 1087 of the Unemployment Insurance Code is amended to read:

1087. Any officer or employee of the Sales and Use Tax Division of the Board of Equalization who is authorized to accept an application for a seller’s permit under Section 6066 of the Revenue and Taxation Code or authorized to register a retailer under Section 6226 of the Revenue and Taxation Code is a duly authorized agent of the Employment Development Department for purposes of accepting registration of employers as required in this part.

The department shall reimburse the Board of Equalization for any additional costs incurred by reason of services by any of its officers or employees to the department pursuant to this section.

SEC. 11. Section 1128 of the Unemployment Insurance Code is amended to read:
1128. (a) If the failure of the employing unit to file a return or report within the time required by this division and authorized regulations or if any part of the deficiency for which an assessment is made is due to fraud or an intent to evade this division or authorized regulations, a penalty of 50 percent of the amount of contributions assessed shall be added to the assessment. This penalty is in addition to the penalties provided pursuant to Sections 1126 and 1127.

(b) An additional penalty of 50 percent of the amount of contributions assessed shall be added to any assessment that includes a penalty under subdivision (a), if the employer paid wages and failed to provide information returns as required under Section 13050 of this code or Section 6041A of the Internal Revenue Code. This penalty shall be in addition to any penalties under Section 1126 or 1127.

SEC. 12. Section 1141.5 of the Unemployment Insurance Code is repealed.

SEC. 13. Section 1177.5 of the Unemployment Insurance Code is amended to read:

1177.5. (a) If the director determines that an overpayment has been made to the department by an employing unit or the School Employees Fund because of a reason specified in this subdivision, and the amount of the overpayment has been reimbursed to the state by the federal government pursuant to the federal Workforce Investment Act of 1998, then the director shall credit the employing unit or the School Employees Fund with the amount of that overpayment, provided that the director determines that the overpayment was made because of one of the following:

1. An employing unit paid unemployment insurance contributions after December 31, 1974, based on wages paid to individuals participating in a public service employment program under the federal Workforce Investment Act of 1998.

2. An employing unit paid amounts after December 31, 1975, pursuant to Section 803 of this part, for benefits awarded based on wages paid to individuals participating in a public service employment program under the federal Workforce Investment Act of 1998.

3. Payments were made by the School Employees Fund after December 31, 1975, to the Unemployment Fund pursuant to Section 821 of this part for benefits awarded based on wages paid to individuals participating in a public service employment program under the federal Workforce Investment Act of 1998.

(b) No overpayment described in subdivision (a) shall be refunded to an employing unit or to the School Employees Fund.

SEC. 14. Section 2606 of the Unemployment Insurance Code is amended to read:

2606. “Employment” for the purposes of this part means:
(a) Service included in “employment” as defined by Part 1 (commencing with Section 100) of this division, except that with respect to service for any public entity as defined by Section 605 “employment” for the purposes of this part includes only:

(1) Service for a hospital established, maintained and operated pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code.

(2) Service performed for a public housing administration agency whether operated by state or local governmental subdivisions.

(3) Service performed by a state employee to the extent provided by Section 2781.

(4) Service covered under this part by an elective coverage agreement.

(b) Notwithstanding any other provision of this division, all service performed in the employ of a corporation, community chest, fund, or foundation, in connection with the operation of a health facility as defined in Section 1250 of the Health and Safety Code including the institutions described in subdivision (a) of Section 1270 of the Health and Safety Code but not including county hospitals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office and which is exempt from income tax under Section 501(a) of the Internal Revenue Code of 1954, except service performed by an individual as a duly ordained priest, clergyman, rabbi, rector, vicar, pastor, or minister of religion, or by a practitioner who heals the sick by prayer in the practice of religion, or by a reader whose duty it is to conduct regular religious services of a religious organization, or by a member of a religious order in the exercise of duties required by the order, or by any other individual performing service in the practice of religion by designation of the governing body of a religious organization and subject to discipline by, including removal by, the governing body.

This section shall become operative on July 1, 1978.

SEC. 15. Section 13003 of the Unemployment Insurance Code is amended to read:

13003. (a) Except where the context otherwise requires, the definitions set forth in this chapter, and in addition the definitions and provisions of the Personal Income Tax Law referred to and hereby incorporated by reference as set forth in the following provisions of the Revenue and Taxation Code, shall apply to and govern the construction of this division:

(1) “Corporation” as defined by Section 17009.
(2) “Fiduciary” as defined by Section 17006.
(3) “Fiscal year” as defined by Section 17011.
(4) “Foreign country” as defined by Section 17019.
(5) “Franchise Tax Board” as defined by Section 17003.
(6) “Husband” and “wife” as defined by Section 17021.
(7) “Individual” as defined by Section 17005.
(8) “Military or naval forces” as defined by Section 17022.
(9) “Nonresident” as defined by Section 17015.
(10) “Partnership” as defined by Section 17008.
(11) “Person” as defined by Section 17007.
(12) “Resident” as defined by Sections 17014 and 17016.
(13) “State” as defined by Section 17018.
(14) “Taxable year” as defined by Section 17010.
(15) “Taxpayer” as defined by Section 17004.
(16) “Trade or business” as defined by Section 17020.
(17) “United States” as defined by Section 17017.

(b) The provisions of Part 10 (commencing with Section 17001) and Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code, relating to the following items, are hereby incorporated by reference and shall apply to and govern construction of this division:

(1) Trade or business expense (Article 6 (commencing with Section 17201) of Chapter 3 of Part 10).
(2) Deductions for retirement savings (Article 6 (commencing with Section 17201) of Chapter 3 of Part 10).
(3) Distributions of property by a corporation to a shareholder (Chapter 4 (commencing with Section 17321) of Part 10).
(4) Deferred compensation (Chapter 5 (commencing with Section 17501) of Part 10).
(5) Partners and partnerships (Chapter 10 (commencing with Section 17851) of Part 10).
(6) Gross income of nonresident taxpayers Chapter 11 (commencing with Section 17951) of Part 10).
(7) Postponement of the time for certain acts by individuals in or in support of the armed forces (Article 3 (commencing with Section 18621) of Chapter 2 of Part 10.2).
(8) Disclosure of information (Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2). For this purpose “Franchise Tax Board” as used therein shall mean the Employment Development Department in respect to information obtained in the administration of this division.

SEC. 16. Section 13021.5 of the Unemployment Insurance Code is amended to read:
13021.5. (a) “Electronic funds transfer” means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfers shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, Fedwire, or by other specific electronic funds transfer methods approved in advance by the department.

(b) “Automated clearinghouse” means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks and/or bank accounts and which authorizes an electronic transfer of funds between those banks or bank accounts.

(c) “Automated clearinghouse debit” means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the employer’s bank account and crediting the state’s bank account for the amount of tax. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) “Automated clearinghouse credit” means an automated clearinghouse transaction in which the employer through its own bank, originates an entry crediting the state’s bank account and debiting its own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the employer and to the state shall be paid by the employer.

(e) “Fedwire” means any transaction originated by the employer and utilizing the national electronic payment system to transfer funds through the federal reserve banks, pursuant to which the employer debits its own bank account and credits the state’s bank account. Electronic funds transfer payments may be made by Fedwire only if prior approval is obtained from the department and payment cannot, for good cause, be made pursuant to subdivision (a). Banking costs incurred for the Fedwire transaction charged to the employer and to the state shall be paid by the employer.

(f) “Banking day” means any day other than a Saturday, Sunday, or banking holiday as recognized by the Internal Revenue Service.

(g) “Settlement date” means the date on which an exchange of funds with respect to an entry is reflected on the books of the Federal Reserve Bank.

(h) For the purposes of Section 13021, the “cumulative average payment” means the cumulative dollar amount of deposits divided by the number of payments submitted during a given period. For the
purposes of this section, the “cumulative average payment” may also be defined as a single annual deposit, when only one payment is made during the 12-month period ending June 30.

SEC. 17. Section 13028 of the Unemployment Insurance Code is amended to read:

13028. (a) For purposes of this division (and so much of Part 10 (commencing with Section 17001) and Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code as relates to this division) pensions, annuities, and other deferred income, as described in Section 3405 of the Internal Revenue Code, are wages and subject to withholding under this division. Amounts withheld shall be treated as if the amounts are withheld by an employer for a payroll period and only amounts withheld shall be reported to the department pursuant to Section 1088 and Section 13021.

(b) If an individual makes an election under Section 3405(a)(2) or Section 3405(b)(2) of the Internal Revenue Code not to have tax withheld, that election shall apply to withholding under this division, unless the individual elects, with the consent of the payer, to have those payments subject to withholding under this division. If an individual has not made an election under Section 3405(a)(2) or Section 3405(b)(2) of the Internal Revenue Code, that individual may elect to exclude those payments from withholding under this division. Elections provided in this subdivision shall be made pursuant to regulations of the director.

(c) Where Section 3405 of the Internal Revenue Code provides that tables or other computational procedures shall be prescribed by the Secretary of the Treasury, for the purposes of this division, any of the following amounts may be withheld, upon election of the payer:

(1) An amount determined by the method prescribed under Section 13020.

(2) A designated dollar amount as requested by the payee.

(3) Ten percent of the amount of federal withholding computed pursuant to Section 3405 of the Internal Revenue Code.

(d) Where the amount of withholding computed pursuant to subdivision (c) is less than ten dollars ($10) per month, the payer shall not be required to withhold that amount.

(e) This section shall not apply to pensions, annuities, and other deferred income of payees with addresses outside this state, as shown on the most current records of the payer.

(f) The department shall, in consultation with the affected payers and payees, issue regulations to implement this section.

Those regulations shall provide for delay (but not beyond July 1, 1987) of the application of this section with respect to any payer or class of payers until that time as the payers are able to comply without undue
hardship with the requirements of this section. In that case, no retroactive compliance shall be required.

SEC. 18. Section 13050 of the Unemployment Insurance Code is amended to read:

13050. (a) Every employer or person required to deduct and withhold from an employee a tax under Section 986, 3260, or 13020, or who would have been required to deduct and withhold a tax under Section 13020 (determined without regard to Section 13025) if the employee had claimed no more than one withholding exemption, shall furnish to each employee in respect of the remuneration paid by the person to the employee during the calendar year, on or before January 31 of the succeeding year, or, if his or her employment is terminated before the close of the calendar year, on the day on which the last payment of remuneration is made, a written statement showing all of the following:

(1) The name of the person.
(2) The name of the employee, and his or her social security or identifying number if wages have been paid.
(3) The total amount of wages subject to personal income tax, as defined by Section 13009.5.
(4) The total amount deducted and withheld as tax under Section 13020.
(5) The total amount of worker contributions paid by the employee pursuant to Section 986.
(6) The total amount of worker contributions paid by the employee pursuant to Section 3260.
(7) The total amount of elective deferrals (within the meaning of Section 402(g)(3) of the Internal Revenue Code) and compensation deferred pursuant to Section 457 of the Internal Revenue Code.

(b) The statement required to be furnished pursuant to this section in respect of any remuneration shall be furnished at other times, shall contain other information, and shall be in a form, as the department may by authorized regulations prescribe.

(c) (1) A duplicate of any statement made pursuant to this section and in accordance with authorized regulations prescribed by the department shall, when required by the regulations, be filed with the department.
(2) Effective January 1, 1995, this subdivision shall apply only to those employers exempted under subdivision (h) of Section 1088 or subdivision (k) of Section 13021 from the requirements to report individual amounts withheld on the report of wages and to file the annual reconciliation return for the 1995 calendar year only. This subdivision shall remain in effect only until March 1, 1996, and on that date is repealed, unless a later enacted statute that is enacted before March 1, 1996, deletes or extends that date.
(d) If, during any calendar year, any person makes a payment of third-party sick pay to an employee, that person shall, on or before January 15 of the succeeding year, furnish a written statement to the employer in respect of whom the payment was made showing all of the following:

1. The name and, if there is withholding under this division, the social security number of that employee.
2. The total amount of the third-party sick pay paid to that employee during the calendar year.
3. The total amount, if any, deducted and withheld from that sick pay under this division. For purposes of the preceding sentence, the term “third-party sick pay” means any sick pay, as defined in subdivision (b) of Section 13028.6, which does not constitute wages for purposes of this division, determined without regard to subdivision (a) of Section 13028.6.

(A) For purposes of Chapter 10 (commencing with Section 2101) of Part 1 of Division 1, the statements required to be furnished by this subdivision shall be treated as statements required under this section to be furnished to employees.

(B) Every employer who receives a statement under this subdivision with respect to sick pay paid to any employee during any calendar year shall, on or before January 31 of the succeeding year, furnish a written statement to that employee showing all of the information shown on the statement furnished under this subdivision.

(e) The Franchise Tax Board shall be allowed access to the information filed with the department pursuant to this section.

SEC. 19. Section 13052.5 of the Unemployment Insurance Code is amended to read:

13052.5. (a) In addition to the penalty imposed by Section 19183 of the Revenue and Taxation Code (relating to failure to file information returns), if any person, or entity fails to report amounts paid as remuneration for personal services as required under Section 13050 of this code or Section 6041A of the Internal Revenue Code on the date prescribed thereof (determined with regard to any extension of time for filing), that person or entity may be liable for a penalty determined under subdivision (b).

(b) For purposes of subdivision (a), the amount determined under this subdivision is the maximum rate under Section 17041 of the Revenue and Taxation Code multiplied by the unreported amounts paid as remuneration for personal services.

(c) The penalty imposed by subdivision (a) shall be assessed against that person or entity required to file a return under Section 13050 of this code or Section 6041A of the Internal Revenue Code.
(d) Sections 1221 and 1222 of the Unemployment Insurance Code shall not apply to assessments imposed by this section.

(e) The penalty imposed under this section shall be in lieu of the penalty imposed under Section 19175 of the Revenue and Taxation Code. In the event that a penalty is imposed under both this section and Section 19175 of the Revenue and Taxation Code, only the penalty imposed under this section shall apply.

(f) The penalty imposed by this section may be assessed in lieu of, or in addition to, the penalty imposed by Section 13052 with respect to the failure to furnish a withholding statement to an employee.

CHAPTER 30

An act to add Sections 17501.5 and 17501.7 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor April 25, 2002. Filed with Secretary of State April 26, 2002.]

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

SECTION 1. Section 17501.5 is added to the Revenue and Taxation Code, to read:

17501.5. The amendments made by Section 641 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) to the following provisions of the Internal Revenue Code or other federal law shall apply for purposes of this part, Part 10.2 (commencing with Section 18401), and Part 11 (commencing with Section 23001), with respect to distributions after December 31, 2001, except as otherwise provided:

(a) Section 72, relating to annuities and certain proceeds of endowment and life insurance contracts.

(b) Section 219, relating to retirement savings.

(c) Section 401, relating to qualified pension, profit-sharing, and stock bonus plans.

(d) Section 402, relating to taxability of beneficiary of employees’ trust.

(e) Section 403, relating to taxation of employee annuities.

(f) Section 408, relating to individual retirement accounts.

(g) Section 415, relating to limitations on benefits and contribution under qualified plans.

(h) Section 457, relating to deferred compensation plans of state and local governments and tax-exempt organizations.
(i) Subsections (h)(3) and (h)(5) of Section 1122 of the Tax Reform Act of 1986.

SEC. 2. Section 17501.7 is added to the Revenue and Taxation Code, to read:

17501.7. The amendments made by Section 647 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) to the following provisions of the Internal Revenue Code shall apply for purposes of this part, Part 10.2 (commencing with Section 18401), and Part 11 (commencing with Section 23001), with respect to trustee-to-trustee transfers after December 31, 2001, except as otherwise provided:

(a) Section 403, relating to taxation of employee annuities.
(b) Section 457, relating to deferred compensation plans of state and local governments and tax-exempt organizations.

SEC. 3. Notwithstanding any provision of state or local law, regulation, rule, ordinance, or plan requirement to the contrary, including, but not limited to, Part 13 (commencing with Section 22000) of the Education Code, and Title 2 (commencing with Section 8000), Title 3 (commencing with Section 23000), Title 4 (commencing with Section 34000), Title 5 (commencing with Section 50001), and Title 8 (commencing with Section 68070) of the Government Code, any member or plan participant who retired on or after January 1, 2002, and prior to the date that is 120 days after the effective date of legislation that conforms to or otherwise adopts the amendments made to the Internal Revenue Code by Sections 641 and 647 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16), may purchase permissive service credit under the system or plan or redeposit previously withdrawn contributions under the system or plan, or both, prior to January 1, 2003, if (a) the payment made to the system or plan to purchase the permissive service credit or redeposit the contributions, or both, are paid for with funds that were eligible for rollover into the system or plan under the provisions of Section 641 or 647 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16), and (b) all payments intended to qualify under this section for the purchase of permissive service credit and redeposit of contributions are received by the system or plan no later than the date that is 180 days after the effective date of legislation that conforms to or otherwise adopts the amendments made to the Internal Revenue Code by Sections 641 and 647 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16).

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. Sections 1 and 2 of this act conform to federal law, in whole or in part, and shall be operative with respect to the same period and the same
transactions as the federal law provisions to which those sections conform.

CHAPTER  31

An act to amend Sections 18944.30, 18944.31, 18944.33, 18944.35, and 18944.40 of, and to add Section 18944.41 to, the Health and Safety Code, relating to building standards, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 25, 2002. Filed with Secretary of State April 26, 2002.]

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

SECTION 1. Section 18944.30 of the Health and Safety Code is amended to read:

18944.30. The Legislature finds and declares all of the following:

(a) There is an urgent need for low-cost, energy-efficient housing in California.

(b) The cost of conventional lumber-framed housing has risen due to a shortage of construction-grade lumber.

(c) Straw is an annually renewable source of cellulose that can be used as an energy-efficient substitute for stud-framed wall construction.

(d) The state has mandated that the burning of rice straw be greatly reduced.

(e) As a result of the mandated burning reduction, growers are experimenting with alternative straw management practices. Various methods of straw incorporation into the soil are the most widely used alternatives. The two most common methods are nonflood incorporation and winter flood incorporation. Economically viable off-farm uses for rice straw are not yet available.

(f) Winter flooding of rice fields encourages the natural decomposition of rice straw and provides valuable waterfowl habitat. According to the Central Valley Habitat Joint Venture component of the North American Waterfowl Management Plan, in California’s Central Valley, over 400,000 acres of enhanced agricultural lands are needed to restore the depleted migratory waterfowl populations of the Pacific flyway. Flooded rice fields are a key and integral part of the successful restoration of historic waterfowl and shorebird populations.

(g) Winter flooding of rice fields provides significant waterfowl habitat benefits and should be especially encouraged in areas where there
is minimal potential to impact salmon as a result of surface water diversions.

(h) An economically viable market for rice straw bales could result from the use of rice straw bales in housing construction.

(i) Practicing architects and engineers have determined that the statutory guidelines established by Chapter 941 of the Statutes of 1995 contain specific requirements that they believe are either unnecessary or detrimental. Some of the requirements are considered costly and severely restrict the development of straw-bale housing.

(j) Statutory guidelines for the use of straw-bale housing would significantly benefit energy conservation, natural resources, low-cost housing, agriculture, and fisheries in California.

(k) Tests and experience with straw-bale construction demonstrate that it is a strong, durable, and thermally superior building system that deserves a larger role in modern construction.

SEC. 2. Section 18944.31 of the Health and Safety Code is amended to read:

18944.31. (a) Notwithstanding any other provision of law, the guidelines established by this chapter shall apply to the construction of all structures that use baled straw as a loadbearing or nonloadbearing material within any city or county that adopted the guidelines established by Chapter 941 of the Statutes of 1995 prior to January 1, 2002. This requirement shall not preclude the city or county from making changes or modifications to the guidelines pursuant to subdivision (b). Notwithstanding any other provision of law, the guidelines established by this chapter shall not become operative in a city or county that has not adopted the guidelines prior to January 1, 2002, unless and until the legislative body of the city or county makes an express finding that the application of these guidelines within the city or county is reasonably necessary because of local conditions and the city or county files a copy of that finding with the department.

(b) A city or county may, by ordinance or regulation, make any changes or modifications in the guidelines contained in this chapter as it determines are reasonably necessary because of local conditions, provided the city or county files a copy of the changes or modifications and the express findings for the changes or modifications with the department. No change or modification of that type shall become effective or operative for any purpose until the finding and the change or modification has been filed with the department.

(c) Nothing in this chapter shall be construed as increasing or decreasing the authority to approve or disapprove of alternative construction methods pursuant to the State Housing Law, Part 1.5 (commencing with Section 17910) or the California Building Standards Code, Title 24 of the California Code of Regulations.
It is the intent of the Legislature that the statutory guidelines of this chapter serve as an interim measure pending the evaluation of straw bales as a construction material through the normal processes used for the testing and listing of building materials, the determination of construction standards, and the adoption of those materials and construction standards into the California Building Standards Code.

SEC. 3. Section 18944.33 of the Health and Safety Code is amended to read:

18944.33. For the purposes of this chapter, the following terms are defined as follows:

(a) “Bales” means rectangular compressed blocks of straw, bound by strings or wire.
(b) “Department” means the Department of Housing and Community Development.
(c) “Flakes” means slabs of straw removed from an untied bale. Flakes are used to fill small gaps between the ends of stacked bales.
(d) “Laid flat” refers to stacking bales so that the sides with the largest cross-sectional area are horizontal and the longest dimension of this area is parallel with the wall plane.
(e) “Laid on edge” refers to stacking bales so that the sides with the largest cross-sectional area are vertical and the longest dimension of this area is horizontal and parallel with the wall plane.
(f) “Loadbearing” refers to plastered straw-bale walls that bear the dead and live loads of the roof and any upper floor.
(g) “Nonloadbearing” refers to plastered straw-bale walls that bear only their own weight, such as infill panels within some type of post and beam structure.
(h) “Plaster” means lime, gypsum, lime cement, or cement plasters, as defined by the California Building Standards Code, or earthen plaster with fiber reinforcing.
(i) “Straw” means the dry stems of cereal grains left after the seed heads have been substantially removed.

SEC. 4. Section 18944.35 of the Health and Safety Code is amended to read:

18944.35. (a) Bales shall be rectangular in shape.
(b) Bales used within a continuous wall shall be of consistent height and width to ensure even distribution of loads within wall systems.
(c) Bales shall be bound with ties of either polypropylene string or baling wire. Bales with broken or loose ties shall not be used unless the broken or loose ties are replaced with ties which restore the original degree of compaction of the bale.
(d) The moisture content of bales, at the time of installation, shall not exceed 20 percent of the total weight of the bale. Moisture content of bales shall be determined through the use of a suitable moisture meter,
designed for use with baled rice straw or hay, equipped with a probe of sufficient length to reach the center of the bale, and used to determine the average moisture content of five bales randomly selected from the bales to be used.

(e) Bales in loadbearing walls shall have a minimum calculated dry density of 7.0 pounds per cubic foot. The calculated dry density shall be determined after reducing the actual bale weight by the weight of the moisture content.

(f) Where custom-made partial bales are used, they shall be of the same density, same string or wire tension, and, where possible, use the same number of ties as the standard size bales.

(g) Bales of various types of straw, including wheat, rice, rye, barley, oats, and similar plants, shall be acceptable if they meet the minimum requirements of this chapter for density, shape, moisture content, and ties.

SEC. 5. Section 18944.40 of the Health and Safety Code is amended to read:

18944.40. (a) Straw-bale walls, when covered with plaster, drywall, or stucco, shall be deemed to have the equivalent fire resistive rating as wood-frame construction with the same wall-finishing system.

(b) Minimum bale wall thickness shall be 13 inches.

(c) Buildings with loadbearing bale walls shall not exceed one story in height without substantiating calculations and design by a civil engineer or architect licensed by the state, and the bale portion of the loadbearing walls shall not exceed a height-to-width ratio of 5.6:1 (for example, the maximum height for a wall that is 23 inches thick would be 10 feet 8 inches).

(d) The ratio of unsupported wall length to thickness, for loadbearing walls, shall not exceed 15.7:1 (for example, for a wall that is 23 inches thick, the maximum unsupported length allowed is 30 feet).

(e) The allowable vertical load (live and dead load) on top of loadbearing bale walls plastered with cement or lime cement plaster on both sides shall not exceed 800 pounds per linear foot, and the resultant load shall act at the center of the wall. Straw-bale structures shall be designed to withstand all vertical and horizontal loads, and the resulting overturning and base shear, as specified in the latest edition of the California Building Standards Code. Straw-bale walls plastered with cement or lime cement plaster on both sides shall be capable of resisting in-plane lateral forces from wind or earthquake of 360 pounds per linear foot.

(f) Foundations shall be designed in accordance with the California Building Standards Code to accommodate the load created by the bale wall plus superimposed live and dead loads. Supports for bale walls shall
extend to an elevation of at least six inches above adjacent ground at all points, and at least one inch above floor surfaces.

(g) (1) Bale walls shall be anchored to supports to resist lateral forces, as approved by the civil engineer or architect. This may be accomplished with one-half inch reinforcing bars embedded in the foundation and penetrating the bales by at least 12 inches, located along the center line of the bale wall, spaced not more than two feet apart. Other methods as determined by the engineer or architect may also be used.

(2) Nonbale walls abutting bale walls shall be attached by means of one or more of the following methods or by means of an acceptable equivalent:

(A) Wooden dowels of \(\frac{5}{8}\) inch minimum diameter and of sufficient length to provide 12 inches of penetration into the bale, driven through holes bored in the abutting wall stud, and spaced to provide one dowel connection per bale.

(B) Pointed wooden stakes, a minimum of 12 inches in length and 1\(\frac{1}{2}\) inches by 3\(\frac{1}{2}\) inches at the exposed end, fully driven into each course of bales, as anchorage points.

(C) Bolted or threaded rod connection of the abutting wall, through the bale wall, to a steel nut and steel or plywood plate washer, a minimum of 6 inches square and a minimum thickness of \(\frac{3}{16}\) of an inch for steel and \(\frac{1}{2}\) inch for plywood, in a minimum of three locations.

(3) (A) Bale walls and roof bearing assemblies shall be anchored to the foundation where necessary, as determined by the civil engineer or architect, by means of methods that are adequate to resist uplift forces resulting from the design wind load. There shall be a minimum of two points of anchorage per wall, spaced not more than 6 feet apart, with one located within 36 inches of each end of each wall.

(B) With loadbearing bale walls, the dead load of the roof and ceiling systems will produce vertical compression of the walls. Regardless of the anchoring system used to attach the roof bearing assembly to the foundation, prior to installation of wall finish materials, the nuts, straps, or cables shall be retightened to compensate for this compression.

(h) (1) A moisture barrier shall be used between the top of the foundation and the bottom of the bale wall to prevent moisture from migrating through the foundation so as to come into contact with the bottom course of bales. This barrier shall consist of one of the following:

(A) Cementitious waterproof coating.

(B) Type 30 asphalt felt over an asphalt emulsion.

(C) Sheet metal flashing, sealed at joints.

(D) Another building moisture barrier, as approved by the building official.
(2) All penetrations through the moisture barrier, as well as all joints in the barrier, shall be sealed with asphalt, caulking, or an approved sealant.

(3) There shall also be a drainage plane between the straw and the top of the foundation, such as a one inch layer of pea gravel.

   (i) (1) For non-loadbearing walls, bales may be laid either flat or on edge. Bales in loadbearing bale walls shall be laid flat and be stacked in a running bond, where possible, with each bale overlapping the two bales beneath it. Overlaps shall be a minimum of 12 inches. Gaps between the ends of bales which are less than 6 inches in width may be filled by an untied flake inserted snugly into the gap.

   (2) Bale wall assemblies shall be held securely together by rebar pins driven through bale centers as described in this chapter, or equivalent methods as approved by the civil engineer or architect.

(3) The first course of bales shall be laid by impaling the bales on the rebar verticals and threaded rods, if any, extending from the foundation. When the fourth course has been laid, vertical #4 rebar pins, or an acceptable equivalent long enough to extend through all four courses, shall be driven down through the bales, two in each bale, located so that they do not pass through the space between the ends of any two bales. The layout of these rebar pins shall approximate the layout of the rebar pins extending from the foundation. As each subsequent course is laid, two pins, long enough to extend through that course and the three courses immediately below it, shall be driven down through each bale. This pinning method shall be continued to the top of the wall. In walls seven or eight courses high, pinning at the fifth course may be eliminated.

(4) Alternative pinning method to the method described in paragraph (3): when the third course has been laid, vertical #4 rebar pins, or an acceptable equivalent, long enough to extend through all three courses, shall be driven down through the bales, two in each bale, located so that they do not pass through the space between the ends of any two bales. The layout of these rebar pins shall approximate the layout of the rebar pins extending from the foundation. As each subsequent course is laid, two pins, long enough to extend through that course and the two courses immediately below it, shall be driven down through each bale. This pinning method shall be continued to the top of the wall.

(5) Only full-length bales shall be used at corners of loadbearing bale walls.

(6) Vertical #4 rebar pins, or an acceptable alternative, shall be located within one foot of all corners or door openings.

(7) Staples, made of #3 or larger rebar formed into a “U” shape, a minimum of 18 inches long with two 6-inch legs, shall be used at all corners of every course, driven with one leg into the top of each abutting corner bale.
(j) (1) All loadbearing bale walls shall have a roof bearing assembly at the top of the walls to bear the roof load and to provide the means of connecting the roof structure to the foundation. The roof bearing assembly shall be continuous along the tops of loadbearing bale walls.

(2) An acceptable roof bearing assembly option shall consist of two double 2-inch by 6-inch, or larger, horizontal top plates, one located at the inner edge of the wall and the other at the outer edge. Connecting the two doubled top plates, and located horizontally and perpendicular to the length of the wall, shall be 2-inch by 6-inch cross members, spaced no more than 72 inches center to center, and as required to align with the threaded rods extending from the anchor bolts in the foundation. The double 2-inch by 6-inch top plates shall be face-nailed with 16d nails staggered at 16-inch o.c., with laps and intersections face-nailed with four 16d nails. The crossmembers shall be face-nailed to the top plates with four 16d nails at each end. Corner connections shall include overlaps nailed as above or an acceptable equivalent, such as plywood gussets or metal plates. Alternatives to this roof bearing assembly option shall provide equal or greater vertical rigidity and provide horizontal rigidity equivalent to a continuous double 2 by 4 top plate.

(3) The connection of roof framing members to the roof plate shall comply with the appropriate sections of the California Building Standards Code.

(k) All openings in loadbearing bale walls shall be a minimum of one full bale length from any outside corner, unless exceptions are approved by an engineer or architect licensed by the state to practice. Wall or roof load present above any opening shall be carried, or transferred, to the bales below by one of the following:

(1) A frame, such as a structural window or door frame.

(2) A lintel, such as an angle-iron cradle, wooden beam, or wooden box beam. Lintels shall be at least twice as long as the opening is wide and extend a minimum of 24 inches beyond either side of the opening. Lintels shall be centered over openings.

(3) A roof bearing assembly designed to act as a rigid beam over the opening.

(l) (1) All weather-exposed bale walls shall be protected from water damage. No vapor impermeable barrier may be used on bale walls, and the civil engineer or architect may design the bale walls without any membrane barriers between straw and plaster, except as specified in this section, in order to allow natural transpiration of moisture from the bales and to secure a structural bond between plaster and straw.

(2) Bale walls shall have special moisture protection provided at all horizontal surfaces exposed to the weather. This moisture protection shall be installed in a manner that will prevent water from entering the wall system.
(m) (1) Interior and exterior surfaces of bale walls shall be protected from mechanical damage, flame, animals, and prolonged exposure to water. Bale walls adjacent to bath and shower enclosures shall be protected by a moisture barrier.

(2) Cement stucco shall be reinforced with galvanized woven wire stucco netting or an equivalent, as approved by the building official. The reinforcement shall be secured by attachment through the wall at a maximum spacing of 24 inches horizontally and 16 inches vertically, unless substantiated otherwise by a civil engineer or architect.

(3) Where bales abut other materials, the plaster or stucco shall be reinforced with galvanized expanded metal lath, or an acceptable equivalent, extending a minimum of 6 inches onto the bales.

(4) Earthen and lime-based plasters may be applied directly onto bale walls without reinforcement, except where applied over materials other than straw.

(n) (1) All wiring within or on bale walls shall meet all provisions of the California Electrical Code. Type “NM” or “UF” cable may be used, or wiring may be run in metallic or nonmetallic conduit systems.

(2) Electrical boxes shall be securely attached to wooden stakes driven a minimum of 12 inches into the bales, or an acceptable equivalent.

(o) Water or gas pipes within bale walls shall be encased in a continuous pipe sleeve to prevent leakage within the wall. Where pipes are mounted on bale walls, they shall be isolated from the bales by a moisture barrier.

(p) Bales shall be protected from rain and other moisture infiltration at all times until protected by the roof of the structure.

SEC. 6. Section 18944.41 is added to the Health and Safety Code, to read:

18944.41. Sections 18944.30, 18944.31, 18944.33, 18944.35, and 18944.40 shall become inoperative when building standards become effective after approval by the California Building Standards Commission pursuant to Chapter 4 (commencing with Section 18935) that permit the construction of structures that use baled straw as a loadbearing or nonloadbearing material and that are safe to the public.

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

To ensure that recent improvements in the 1995 state guidelines governing design and engineering of structures constructed with baled straw are made available to the public at the earliest opportunity, and to expedite ongoing efforts by the California rice industry to develop alternative markets and uses for rice straw stubble, it is necessary that this act take effect immediately.

CHAPTER 32

An act to repeal and add and repeal Section 2087 of the Fish and Game Code, relating to endangered species.

[Approved by Governor April 25, 2002. Filed with Secretary of State April 26, 2002.]

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

SECTION 1. Section 2087 of the Fish and Game Code is repealed.

SEC. 2. Section 2087 is added to the Fish and Game Code, to read:

2087. (a) Accidental take of candidate, threatened, or endangered species resulting from acts that occur on a farm or a ranch in the course of otherwise lawful routine and ongoing agricultural activities is not prohibited by this chapter.

(b) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.

CHAPTER 33

An act to amend Sections 17070.15, 17070.35, 17070.40, 17070.43, 17070.51, 17070.65, 17070.70, 17071.33, 17071.75, 17072.10, 17072.25, 17074.10, 17074.15, 17075.10, 17075.15, 17076.10, 17088.2, 17262, and 17280 of, to add Sections 17070.95, 17074.16, 17074.26, 17077.35, 17251.5, and 17280.5 to, to amend and renumber Section 17077.10 of, to amend and renumber the heading of Article 10 (commencing with Section 17077.10) of Chapter 12.5 of Part 10 of, to add Article 10.6 (commencing with Section 17077.40) to Chapter 12.5
of Part 10 of, to add Article 11 (commencing with Section 17078.10) to Chapter 12.5 of Part 10 of, and to add Part 68.1 (commencing with Section 100600) and Part 68.2 (commencing with Section 100800) to, the Education Code, to amend Sections 15490 and 65995.7 of the Government Code, and to amend Section 51455 of, and to add Sections 51451.5 and 51453 to, the Health and Safety Code, relating to education facilities, and by providing the funds necessary therefor through an election for the issuance and sale of bonds of the State of California and for the handling and disposition of those funds, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 26, 2002. Filed with Secretary of State April 29, 2002.]

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

SECTION 1. Section 17070.15 of the Education Code is amended to read:

17070.15. The following terms, wherever used or referred to in this chapter, shall have the following meanings, respectively, unless a different meaning appears from the context:

(a) “Apportionment” means a reservation of funds for the purpose of eligible new construction, modernization, or hardship approved by the board for an applicant school district.

(b) “Attendance area” means the geographical area serving an existing high school and those junior high schools and elementary schools included therein.

(c) “Board” means the State Allocation Board as established by Section 15490 of the Government Code.

(d) “Department” means the Department of General Services.

(e) “Committee” means the State School Building Finance Committee established pursuant to Section 15909.

(f) “Modernization” means any modification of a permanent structure that is at least 25 years old, or in the case of a portable classroom, that is at least 20 years old, that will enhance the ability of the structure to achieve educational purposes.

(g) “Property” includes all property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of this chapter.

(h) “School district” means a school district or a county office of education. For purposes of determining eligibility under this chapter, “school district” may also mean a high school attendance area.

(i) “Fund” means the 1998 State School Facilities Fund, the 2002 State School Facilities Fund, or the 2004 State School Facilities Fund, as the case may be, established pursuant to Section 17070.40.
(j) “County fund” means a county school facilities fund established pursuant to Section 17070.43.

(k) “Portable classroom” means a classroom building of one or more stories that is designed and constructed to be relocatable and transportable over public streets, and with respect to a single story portable classroom, is designed and constructed for relocation without the separation of the roof or floor from the building and when measured at the most exterior walls, has a floor area not in excess of 2,000 square feet.

(l) “School building capacity” means the capacity of a school building to house pupils.

SEC. 2. Section 17070.35 of the Education Code is amended to read:

17070.35. (a) In addition to all other powers and duties as are granted to the board by this chapter, other statutes, or the California Constitution, the board shall do all of the following:

(1) Adopt rules and regulations, pursuant to the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for the administration of this chapter. However, the board shall have no authority to set the level of the fees of any architect, structural engineer, or other design professional on any project. The initial regulations adopted pursuant to this chapter shall be adopted as emergency regulations, and the circumstances related to the initial adoption are hereby deemed to constitute an emergency for this purpose. The initial regulations adopted pursuant to this chapter shall be adopted by November 4, 1998. If the initial regulations are not adopted by that date, the board shall report to the Legislature by that date, explaining the reasons for the delay.

(2) Establish and publish any procedures and policies in connection with the administration of this chapter as it deems necessary.

(3) Determine the eligibility of school districts to receive apportionments under this chapter.

(4) Apportion funds to eligible school districts under this chapter.

(b) The board shall review and amend its regulations as necessary to adjust its administration of this chapter to conform with the act that amended this section to add this subdivision. Regulations adopted pursuant to this subdivision shall be adopted by November 5, 2002, and shall be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of any emergency regulation pursuant to this subdivision filed with the Office of Administrative Law shall be deemed to be an emergency and necessary for the immediate
preservation of the public peace, health and safety, or general welfare. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, any emergency regulation adopted pursuant to this section shall remain in effect for no more than 365 days unless the board has complied with Sections 11346.2 to 11348, inclusive, of the Government Code.

SEC. 3. Section 17070.40 of the Education Code is amended to read:

17070.40. (a) (1) A fund is hereby established in the State Treasury to be known as the 1998 State School Facilities Fund. All money in the fund, including any money deposited in that fund from any source whatsoever, and notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated without regard to fiscal years for expenditure pursuant to this chapter.

(2) The State Allocation Board may apportion funds to school districts for the purposes of this chapter from funds transferred to the 1998 State School Facilities Fund from any source.

(3) The board may make apportionments in amounts not exceeding those funds on deposit in the 1998 State School Facilities Fund, and any amount of bonds authorized by the committee, but not yet sold by the Treasurer.

(4) The board may make disbursements pursuant to any apportionment made from any funds in the 1998 State School Facilities Fund, irrespective of whether there exists at the time of the disbursement an amount in the 1998 State School Facilities Fund sufficient to permit payment in full of all apportionments previously made. However, no disbursement shall be made from any funds required by law to be transferred to the General Fund.

(b) (1) A fund is hereby established in the State Treasury to be known as the 2002 State School Facilities Fund. All money in the fund, including any money deposited in that fund from any source whatsoever, and notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated without regard to fiscal years for expenditure pursuant to this chapter.

(2) The State Allocation Board may apportion funds to school districts for the purposes of this chapter from funds transferred to the 2002 State School Facilities Fund from any source.

(3) The board may make apportionments in amounts not exceeding those funds on deposit in the 2002 State School Facilities Fund, and any amount of bonds authorized by the committee, but not yet sold by the Treasurer.

(4) The board may make disbursements pursuant to any apportionment made from any funds in the 2002 State School Facilities Fund, irrespective of whether there exists at the time of the disbursement an amount in the 2002 State School Facilities Fund sufficient to permit
payment in full of all apportionments previously made. However, no disbursement shall be made from any funds required by law to be transferred to the General Fund.

(c) (1) A fund is hereby established in the State Treasury to be known as the 2004 State School Facilities Fund. All money in the fund, including any money deposited in that fund from any source whatsoever, and notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated without regard to fiscal years for expenditure pursuant to this chapter.

(2) The State Allocation Board may apportion funds to school districts for the purposes of this chapter from funds transferred to the 2004 State School Facilities Fund from any source.

(3) The board may make apportionments in amounts not exceeding those funds on deposit in the 2004 State School Facilities Fund, and any amount of bonds authorized by the committee, but not yet sold by the Treasurer.

(4) The board may make disbursements pursuant to any apportionment made from any funds in the 2004 State School Facilities Fund, irrespective of whether there exists at the time of the disbursement an amount in the 2004 State School Facilities Fund sufficient to permit payment in full of all apportionments previously made. However, no disbursement shall be made from any funds required by law to be transferred to the General Fund.

SEC. 4. Section 17070.43 of the Education Code is amended to read:

17070.43. (a) A county school facilities fund is hereby established in the county treasury within each county for each school district in the county.

(b) The board may from time to time authorize the Controller to transfer any funds that the board may deem necessary from the 1998 State School Facilities Fund, the 2002 State School Facilities Fund, or the 2004 State School Facilities Fund, as the case may be, to the corresponding county fund in the county treasury. Interest on all funds deposited in the county fund shall be retained in that fund.

(c) Funds may be expended from the county fund by the recipient school district for qualifying school facilities expenditures set forth in Sections 17072.35 and 17074.25.

SEC. 5. Section 17070.51 of the Education Code is amended to read:

17070.51. (a) If any certified eligibility or funding application related information is found to have been falsely certified by school districts, architects or design professionals, hereinafter referred to as a material inaccuracy, the Office of Public School Construction shall notify the board.
(b) The board shall impose the following penalties if an apportionment and fund release has been made based upon information in the project application or related materials that constitutes a material inaccuracy.

(1) Pursuant to a repayment schedule approved by the board of no more than five years, the school district shall repay to the board, for deposit into the 1998 State School Facilities Fund, the 2002 State School Facilities Fund, or the 2004 State School Facilities Fund, as the case may be, an amount proportionate to the additional funding received as a result of the material inaccuracy including interest at the rate paid on moneys in the Pooled Money Investment Account or at the highest rate of interest for the most recent issue of state general obligation bonds as established pursuant to the Chapter 4 (commencing with Section 16720), of Part 3 of Division 4 of Title 2 of the Government Code, whichever is greater.

(2) The board shall prohibit the school district from self-certifying certain project information for any subsequent applications for project funding for a period of up to five years following the date of the finding of a material inaccuracy or until the district’s repayment of the entire amount owed under paragraph (1). Although a school district that is subject to this paragraph may not self-certify, the school district shall not be prohibited from applying for state funding under this chapter. The board shall establish an alternative method for state or independent certification of compliance that shall be applicable in these cases. The process shall include, but shall not be limited to, procedures for payment by the school district of any increased costs associated with the alternative certification process.

(c) For school districts found to have provided material inaccuracies when a funding apportionment has occurred, but no fund release has been made, the board shall direct its staff to reduce the apportionment as necessary to reflect the actual nature of the project and to disregard the inaccurate information or material, and paragraph (2) of subdivision (b) shall apply.

(d) For those school districts found to have provided material inaccuracies when no funding apportionment or fund release has been made, the inaccurate information or materials shall not be considered, and paragraph (2) of subdivision (b) shall apply. The project may continue if the application, minus the inaccurate materials, is still complete.

SEC. 6. Section 17070.65 of the Education Code is amended to read:

17070.65. From any moneys in one of the funds established pursuant to Section 17070.40, as appropriate, and approved for this purpose in the annual Budget Act, the board shall make available to the Director of General Services the amounts that the board determines
necessary for the Department of General Services to provide the assistance, pursuant to this chapter, required pursuant to Section 15504 of the Government Code to facilitate the construction, modernization, reconstruction, or alteration of, or addition to, school buildings.

SEC. 7. Section 17070.70 of the Education Code is amended to read:

17070.70. (a) Title, including, but not limited to, any leasehold interest as set forth in subdivision (c), to all property acquired, constructed, or improved with funds made available under this chapter shall be held by the school district to which the board grants the funds. Title, as defined solely for the purpose of a school district’s eligibility to receive funds from the board pursuant to this chapter shall include an order for prejudgment possession issued by a court in an eminent domain proceeding.

(b) The applicant school district shall comply with all laws pertaining to the construction, reconstruction, or alteration of, or addition to, school buildings.

(c) Notwithstanding Section 17009.5, construction or modernization funds made available pursuant to this chapter may be expended upon property that is leased to the applicant school district only if the project qualified for and received approval by the board, prior to November 4, 1998, pursuant to Article 4 (commencing with Section 17055), of Chapter 12.

SEC. 8. Section 17070.95 is added to the Education Code, to read:

17070.95. As a part of its application for large construction and modernization projects, a school district shall certify, in consultation with the career technical education advisory committee established pursuant to Section 8070, that it has considered the need for vocational and career technical facilities to adequately meet its program needs consistent with Section 51224, subdivision (b) of Section 51225.3, and Section 52336.1. The board shall adopt regulations necessary for administration of this section.

SEC. 9. Section 17071.33 of the Education Code is amended to read:

17071.33. (a) For the purposes of determining existing school building capacity, the calculation shall be adjusted as required for first priority status pursuant to Section 17017.7 as that calculation would have been made under the policies of the board in effect immediately preceding September 1, 1998.

(b) Notwithstanding subdivision (a), with respect to a high school district, the existing school building capacity shall be calculated without regard to multitrack year-round school considerations.

SEC. 10. Section 17071.75 of the Education Code is amended to read:
17071.75. After a one-time initial report of existing school building capacity has been completed, a school district’s ongoing eligibility for new construction funding shall be determined by making all of the following calculations:

(a) Each school district that applies to receive funding for new construction shall calculate enrollment projections for the fifth year beyond the fiscal year in which the application is made. Projected enrollment shall be determined by utilizing the cohort survival enrollment projection system, as defined and approved by the board. The board may supplement the cohort survival enrollment projection by the number of unhoused pupils that are anticipated as a result of dwelling units proposed pursuant to approved and valid tentative subdivision maps.

(b) Add the number of pupils that may be adequately housed in the existing school building capacity of the applicant district as determined pursuant to Article 2 (commencing with Section 17071.10) to the number of pupils for which facilities were provided from any state or local funding source after the existing school building capacity was determined pursuant to Article 2 (commencing with Section 17071.10). For this purpose, the total number of pupils for which facilities were provided shall be determined using the pupil loading formula set forth in Section 17071.25.

(c) Subtract the number of pupils pursuant to subdivision (b) from the number of pupils determined pursuant to subdivision (a).

(d) The calculations required to establish eligibility under this article shall result in a distinction between the number of existing unhoused pupils and the number of projected unhoused pupils.

(e) Apply the increase or decrease resulting from the difference between the most recent report made pursuant to Section 42268, and the report used in determining the school district’s baseline capacity pursuant to subdivision (a) of Section 17071.25.

(f) For a school district with fewer than 2,501 units of average daily attendance, the eligibility determined pursuant to this section shall be fixed for a period of three years from the date of the approval of eligibility by the board.

SEC. 11. Section 17072.10 of the Education Code is amended to read:

17072.10. (a) The board shall determine the applicant’s maximum total new construction grant eligibility by multiplying the number of unhoused pupils calculated pursuant to Article 3 (commencing with Section 17071.75) in each school district with an approved application for new construction, by the per-unhoused-pupil grant as follows:

(1) Five thousand two hundred dollars ($5,200) for elementary school pupils.
(2) Five thousand five hundred dollars ($5,500) for middle school pupils.

(3) Seven thousand two hundred dollars ($7,200) for high school pupils.

(b) The board shall annually adjust the per-unhoused-pupil apportionment to reflect construction cost changes, as set forth in the statewide cost index for class B construction as determined by the board.

(c) The board may adopt regulations to be effective until July 1, 2000, that adjust the amounts identified in this section for qualifying individuals with exceptional needs, as defined in Section 56026. The regulations shall be amended after July 1, 2000, in consideration of the recommendations provided pursuant to Section 17072.15.

(d) The board may establish a single supplemental per-unhoused-pupil grant in addition to the amounts specified in subdivision (a) based on the statewide average marginal difference in costs in instances where a project requires multilevel school facilities due to limited acreage. The district’s application shall demonstrate that a practical alternative site is not available.

(e) For a school district having an enrollment of 2,500 or less for the prior fiscal year, the board may approve a supplemental apportionment of up to seven thousand five hundred dollars ($7,500) for any new construction project assistance. The amount of the supplemental apportionment authorized pursuant to this subdivision shall be adjusted in 2001 and every year thereafter by an amount equal to the percentage adjustment for class B construction.

SEC. 12. Section 17072.25 of the Education Code is amended to read:

17072.25. (a) The board shall adopt regulations to develop a mechanism to rank approved applications for new construction funding. This mechanism shall be used to determine the priority of approved applications when either of the following conditions are met:

(1) The total state funds necessary for funding all approved projects pursuant to this chapter exceed the total state funds in the fund for allocation pursuant to this chapter.

(2) The actual amount of unallocated proceeds of state bonds available on or after July 1, 2000, for new construction for the purposes of this chapter is at three hundred million dollars ($300,000,000).

(b) The ranking mechanism shall allocate priority points based upon the percentages of currently and projected unhoused pupils relative to the total population of the applicant district or attendance area and the total number of currently and projected unhoused pupils in an applicant district or attendance area.

(c) The board may award priority points based on other factors that in its judgment result in the most equitable distribution of resources.
among applicants. The additional factors may not constitute greater than a 10-percent weight in the overall priority ranking.

(d) This section shall apply only to projects funded with the proceeds of state bonds approved by the voters prior to January 1, 2002.

SEC. 13. Section 17074.10 of the Education Code is amended to read:

17074.10. (a) The board shall determine the total funding eligibility of a school district for modernization funding by multiplying the following amounts by each pupil of that grade level housed in permanent school buildings that are at least 25 years old or portable classrooms that are at least 20 years old, and that have not been previously modernized with state funding:

(1) Two thousand two hundred forty-six dollars ($2,246) for each elementary pupil.

(2) Two thousand three hundred seventy-six dollars ($2,376) for each middle school pupil.

(3) Three thousand one hundred ten dollars ($3,110) for each high school pupil.

(b) The board shall annually adjust the factors set forth in subdivision (a) according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the board.

(c) The board may adopt regulations to be effective until July 1, 2000, that adjust the amounts identified in this section for qualifying individuals with exceptional needs, as defined in Section 56026. The regulations shall be amended after July 1, 2000, in consideration of the recommendations provided pursuant to Section 17072.15.

(d) It is the intent of the Legislature that the amounts provided pursuant to this article for school modernization do not include funding for administrative and overhead costs.

(e) For a school district having an enrollment of 2,500 or less for the prior fiscal year, the board may approve a supplemental apportionment of up to two thousand five hundred dollars ($2,500) for any modernization project assistance. The amount of the supplemental apportionment shall be adjusted in 2001 and every year thereafter by an amount equal to the percentage adjustment for class B construction.

SEC. 14. Section 17074.15 of the Education Code is amended to read:

17074.15. (a) The board shall release disbursements to school districts with approved applications for modernization, to the extent state funds are available for the state’s 80-percent share, and the school district has provided its 20-percent local match. Subject to the availability of funds, the board shall apportion funds to an eligible school district only upon the approval of the project by the Department of General Services pursuant to the Field Act, as defined in Section
17281, including, but not limited to, a project that complies with the Field Act by complying with Section 17280.5, and evidence that the certification by the school district that the required 20-percent matching funds from local sources have been expended by the district for the project, or have been deposited in the county fund or will be expended by the district by the time of completion of the project, and evidence that the district has entered into a binding contract for the completion of that project. If state funds are insufficient to fund all qualifying school districts, the board shall fund all qualifying school districts in the order in which the application for funding was approved by the board.

(b) This section shall apply only to an application filed on or before March 15, 2002, regardless of the source of state bond funding.

SEC. 15. Section 17074.16 is added to the Education Code, to read:

17074.16. (a) The board shall release disbursements to school districts with approved applications for modernization, to the extent state funds are available for the state’s 60-percent share, and the school district has provided its 40-percent local match. Subject to the availability of funds, the board shall apportion funds to an eligible school district only upon the approval of the project by the Department of General Services pursuant to the Field Act, as defined in Section 17281, including, but not limited to, a project that complies with the Field Act by complying with Section 17280.5, and evidence that the certification by the school district that the required 40-percent matching funds from local sources have been expended by the district for the project, or have been deposited in the county fund or will be expended by the district by the time of completion of the project, and evidence that the district has entered into a binding contract for the completion of that project. If state funds are insufficient to fund all qualifying school districts, the board shall fund all qualifying school districts in the order in which the application for funding was approved by the board.

(b) This section shall apply only to an application that was filed after March 15, 2002.

SEC. 16. Section 17074.26 is added to the Education Code, to read:

17074.26. The board shall adopt regulations to adjust the per-pupil amounts set forth in Section 17074.14 for modernization projects for school buildings that are 50 years old or older based upon the higher costs associated with modernizing older buildings.

SEC. 17. Section 17075.10 of the Education Code is amended to read:

17075.10. (a) A school district may apply for hardship assistance in cases of extraordinary circumstances.

(b) A school district applying for hardship state funding under this article shall comply with either paragraph (1) or (2).

(1) Demonstrate both of the following:
(A) That due to extreme financial, disaster-related, or other hardship the school district has unmet need for pupil housing.

(B) That the school district is not financially capable of providing the matching funds otherwise required for state participation, that the district has made all reasonable efforts to impose all levels of local debt capacity and development fees, and that the school district is, therefore, unable to participate in the program pursuant to this chapter except as set forth in this article.

(2) Demonstrate that due to unusual circumstances that are beyond the control of the district, excessive costs need to be incurred in the construction of school facilities.

(c) The board shall review the increased costs that may be uniquely associated with urban construction and shall adjust the per-pupil grant for new construction, or modernization, hardship applications as necessary to accommodate those costs. The board shall adopt regulations setting forth the standards, methodology, and a schedule of allowable adjustments, for the urban adjustment factor established pursuant to this subdivision.

SEC. 18. Section 17075.15 of the Education Code is amended to read:

17075.15. (a) From funds available from any bond act for the purpose of funding facilities for school districts with a financial hardship, the board may provide other construction, modernization, or relocation assistance as set forth in this chapter or Chapter 14 (commencing with Section 17085) to the extent that severe circumstances may require, and may adjust or defer the local financial participation, as pupil health and safety considerations require to the extent that bond act funds are provided for this purpose.

(b) The board shall adopt regulations for determining the amount of funding that may be provided to a district, and the eligibility and prioritization of funding, under this article.

(c) The regulations shall define the amount, and sources, of financing that the school district could reasonably provide for school facilities as follows:

(1) Unencumbered funds available in all facility accounts in the school district including, but not limited to, fees on development, redevelopment funds, sale proceeds from surplus property, funds generated by certificates of participation for facility purposes, bond funds, federal grants, and other funds available for school facilities, as the board may determine.

(2) The board may exclude from consideration all funds encumbered for a specific capital outlay purpose, a reasonable amount for interim housing, and other funds that the board may find are not reasonably available for the project.
(d) Further, the regulations shall also specify a method for determining required levels of local effort to obtain matching funds. The regulations shall include consideration of at least all of the following factors:

(1) Whether the school district has passed a bond measure within the two-year period immediately preceding the application for funding under this article, the proceeds of which are substantially available for use in the project to be funded under this chapter, but remains unable to provide the necessary matching share requirement.

(2) Whether the school district has a current outstanding bonded indebtedness, which shall include general obligation bonds, Mello-Roos bonds, school facility improvement district bonds, certificates of participation, and other debt instruments upon which the school district is paying a debt service, of at least 60 percent of the school district’s total bonding capacity, as determined by the board.

(3) Whether the total bonding capacity, as defined in Section 15102 or 15106, as applicable, is five million dollars ($5,000,000) or less, in which case, the school district shall be deemed eligible for financial hardship.

(4) Whether the application for funding under this article is from a county superintendent of schools.

(5) Whether the school district submits other evidence of substantial local effort acceptable to the board.

(6) The value of any unused local general obligation debt capacity, and developer fees added to the needs analysis to reflect the district’s financial hardship, available for the purposes of school facilities financing.

SEC. 19. Section 17076.10 of the Education Code is amended to read:

17076.10. (a) A school district that has received any funds pursuant to this chapter shall submit a summary report of expenditure of state funds and of district matching funds annually until all state funds and district matching funds are expended, and shall then submit a final report to the board. The board may require an audit of these reports or other district records to ensure that all funds received pursuant to this chapter are expended in accordance with program requirements.

(b) If the board finds that a participating school district has made no substantial progress towards increasing its pupil capacity or modernizing its facilities within 18 months of the receipt of any funding pursuant to this chapter, the board shall rescind the apportionment in an amount equal to the unexpended funds.

(c) If the board, after the review of expenditures or audit has been conducted pursuant to subdivision (a), determines that a school district failed to expend funds in accordance with this chapter, the department
shall notify the school district of the amount that must be repaid to the
1998 State School Facilities Fund, the 2002 State School Facilities
Fund, or the 2004 State School Facilities Fund, as the case may be,
within 60 days. If the school district fails to make the required payment
within 60 days, the department shall notify the Controller and the school
district in writing, and the Controller shall deduct an amount equal to the
amount received by the school district under this subdivision, from the
school district’s next principal apportionment or apportionments of state
funds to the school district, other than basic aid apportionments required
by Section 6 of Article IX of the California Constitution. Any amounts
obtained by the Controller shall be deposited into the 1998 State School
Facilities Fund, the 2002 State School Facilities Fund, or the 2004 State
School Facilities Fund, as appropriate.

(d) If a school district has received an apportionment, but has not met
the criteria to have funds released pursuant to Section 17072.32 or
17074.15 within a period established by the board, but not to exceed 18
months, the board shall rescind the apportionment and deny the district’s
application.

SEC. 20. The heading of Article 10 (commencing with Section
17077.10) of Chapter 12.5 of Part 10 of the Education Code, as added
by Chapter 981 of the Statutes of 1999, is amended and renumbered to
read:

Article 10.5. Energy Efficiency

SEC. 21. Section 17077.10 of the Education Code, as added by
Chapter 981 of the Statutes of 1999, is amended and renumbered to read:

17077.30. (a) As part of the requirements for submission of an
application to the State Allocation Board for funding pursuant to this
chapter for any new construction or modernization project, the applicant
school district may, at the time of submission of the final drawings to the
Division of the State Architect, certify that an energy analysis and report
has been prepared that sets forth the utility savings that would be
generated if the facilities were designed, constructed, and equipped, with
the energy efficiency and renewable technologies that would make the
facilities exceed the minimum building energy-efficiency standards
mandated for new public buildings pursuant to the latest edition of the
California Building Standards Code through the use of energy efficiency
and renewable energy technologies.

(b) The energy analysis and report shall include a verifiable life-cycle
cost analysis for each proposed energy conservation measure and
renewable energy that may include, but need not be limited to,
photovoltaic parking lot and security lighting, and solar swimming pool
and domestic water heating, showing a return on investment of less than 15 years.

(c) The cost of the energy analyses and reports shall not exceed:
   (1) Seven thousand five hundred dollars ($7,500) per project for elementary schools.
   (2) Ten thousand dollars ($10,000) per project for middle schools.
   (3) Fifteen thousand dollars ($15,000) per project for high schools.

(d) An applicant school district may count the following funds or expenditures toward meeting the local matching funds requirement under this chapter:
   (1) The amount from any local sources actually expended on the project by the applicant school district for an energy audit.
   (2) The amount actually applied to the project from any incentive, grant, or rebate, received by the applicant school district from a program funded pursuant to Section 381 of the Public Utilities Code.

SEC. 22. Section 17077.35 is added to the Education Code, to read:
17077.35. (a) An applicant school district may include plan design and other project components that seek school facility energy efficiency approaching the ultimate goal of school facility energy self-sufficiency, and may seek a grant adjustment for the state’s share of the increased costs associated with those components.

(b) Energy efficiency components that are eligible for inclusion into a project pursuant to this section include, but are not limited to, conservation, load reduction technologies, peakload shifting, solar water heating technologies as described in subparagraph (A) of paragraph (2) of subdivision (b) of Section 25619 of the Public Resources Code and as rated and certified by the Solar Rating and Certification Corporation, the use of ground source temperatures for heating and cooling, photovoltaics, and technologies that meet the emerging technology eligibility criteria established by the State Energy Resources Conservation and Development Commission pursuant to Section 383.5 of the Public Utilities Code. A project that received funding from the renewable energy program administered by the State Energy Resources Conservation and Development Commission is not eligible for a grant adjustment under this section.

(c) In order to be eligible for the grant adjustment pursuant to this section, the building proposed for the project, including the energy-efficiency and renewable energy measures utilized pursuant to this section, shall exceed the nonresidential building energy-efficiency standards specified in Part 6 (commencing with Section 100) of Title 24 of the California Code of Regulations by an amount not less than 15 percent for new construction projects and not less than 10 percent for modernization projects, and shall be shown to provide sufficient energy savings to return the cost of the initial investment in the project over a
period not to exceed seven years. The applicant shall certify that the cost for the project exceeds the amount of funding otherwise available to the applicant under this chapter.

(d) The board shall provide an applicant for a new construction or modernization project with a grant adjustment to provide an increase not to exceed 5 percent of its state grants authorized by Sections 17072.10 and 17074.10 for the state’s share of costs associated with design and other plan components related to school facility energy efficiency as set forth in this article.

SEC. 23. Article 10.6 (commencing with Section 17077.40) is added to Chapter 12.5 of Part 10 of the Education Code, to read:

Article 10.6. Joint-use Facilities

17077.40. (a) With funds made available for the purposes of this article, the board may provide a grant to fund joint-use projects to construct facilities on kindergarten to grade 12, inclusive, schoolsites.

(b) A school district may apply to the board for funding under this article for a project that meets any of the following criteria:

(1) The joint-use project is a part of an application for new construction funding under this chapter, and is for the purpose of providing facilities to be used for a kindergarten to grade 12/higher education collaborative effort for any of the following purposes:
   (A) To improve pupil academic achievement.
   (B) To provide teacher education.
   (C) To provide childcare facilities.

(2) The joint-use project is part of an application for new construction funding under this chapter, and will increase the size or extra cost associated with the joint use of the proposed multipurpose room, gymnasium, childcare facility, or library beyond that necessary for school use.

(3) The joint-use project is for a kindergarten to grade 12/higher education collaborative effort to improve academic achievement or provide teacher education, or a multipurpose room, gymnasium, library, or childcare facility, and the project will be located at a school that does not have the type of facility for which funds are requested or the existing facility is inadequate.

17077.42. In order to be approved for a grant under this article, the applicant district shall demonstrate that it has complied with all of the following:

(a) The school district has entered into a joint-use agreement with a governmental agency, public community college, public college or public university, or a nonprofit organization approved by the board.
(b) The joint-use agreement specifies the method of sharing capital and operating costs, specifies relative responsibilities for the operation and staffing of the facility, and specifies the manner in which the safety of the pupils will be ensured.

c) The joint-use partner has agreed to provide matching funds for 50 percent of the eligible costs under this article.

d) The school district demonstrates that the facility will be used to the maximum extent possible for both school and community purposes, or both school and higher education purposes, as applicable.

e) (1) The project application qualifies for funding under paragraph (1) or (2) of subdivision (b) of Section 17077.40 and the school district has received all approvals necessary for apportionment under this chapter.

(2) The project qualifies for funding under paragraph (3) of subdivision (b) of Section 17077.40 and the school district has completed preliminary plans for the project and has received State Department of Education approval of the plans.

17077.45. (a) The board shall establish standards for determining the amount of the supplemental grant funding to be made available for each project under this article. For a project application qualifying for funding under paragraph (1) or (2) of subdivision (b) of Section 17077.40, the supplemental grant shall be in the form of an adjustment to the per-pupil eligibility of the project. For a project application qualifying under paragraph (3) of subdivision (b), the supplemental grant may be provided without regard to the existence of per-pupil eligibility pursuant to this chapter, and may be expressed on per-square-foot cost basis, on a per-pupil cost basis, or on a per-project cost basis.

(b) Notwithstanding any other provision of this chapter, project costs may exceed the board’s standards established pursuant to subdivision (a) only if the excess is paid completely by local or joint-use partner sources.

c) On July 1 of each year the board shall apportion to qualifying applicant school districts those funds that it determines are available for the purpose of this article. The board shall not release funds to a qualifying applicant until the project plans have received all approval required pursuant to this chapter, including, but not limited to, the approval of the Division of the State Architect. If the project does not receive all necessary plan approvals within one year of the date of the apportionment, the board shall rescind the apportionment.

d) If the total funding for the purposes of this article is not sufficient to fund all of the joint-use projects for funding under this article, the board shall fund projects eligible under paragraphs (1), (2), and (3) of subdivision (b) of Section 17077.40 in that order. The board may establish other priority standards within that order, as necessary.
(e) Except as expressly provided in this article, projects funded pursuant to this article shall comply with all other requirements of this chapter, except for Article 11 (commencing with Section 17078.10), which shall apply only to projects under this article if they also qualify for funding under Article 11 (commencing with Section 17078.10).

SEC. 24. Article 11 (commencing with Section 17078.10) is added to Chapter 12.5 of Part 10 of the Education Code, to read:

Article 11. Critically Overcrowded School Facilities

17078.10. (a) There is hereby established the Critically Overcrowded School Facilities Program to be administered by the board.

(b) For the purposes of this article, “preliminary application” means an application for a preliminary apportionment pursuant to this article.

(c) For the purposes of this article, “preliminary apportionment” means an apportionment made for eligible applicants with critically overcrowded schools in advance of full compliance with all of the application requirements otherwise required for an apportionment pursuant to this chapter.

(d) For the purposes of this article, “final apportionment” has the same meaning as “apportionment” as set forth in subdivision (a) of Section 17070.15.

(e) There is hereby established the 2002 Critically Overcrowded School Facilities Account within the 2002 State School Facilities Fund, and the 2004 Critically Overcrowded School Facilities Account within the 2004 State School Facilities Fund, for the purposes of this article. Funds reserved for the purposes of this article shall be placed in those accounts, as appropriate, and shall be available exclusively for projects eligible under this article until the funds are made available for other purposes of this chapter pursuant to Section 17078.30.

17078.15. (a) Unless this article expressly provides otherwise, the provisions contained in the other articles of this chapter shall apply with equal force to a project funded under this article. This article shall control over the provisions of this chapter contained in other articles only to the extent that this article expressly conflicts with those provisions.

(b) This article shall apply only to a project that is otherwise eligible under this chapter and that meets both of the following criteria:

(1) The project meets the criteria set forth in Section 17078.18.

(2) The project is to be funded from the proceeds of state bonds approved by the voters at the November 5, 2002, statewide general election, or the 2004 direct primary election or the 2004 statewide general election, as the case may be, that were expressly reserved in the bond act or acts for the purposes set forth in this article.
(c) The state share of project costs and the state per-unhoused-pupil new construction apportionments for programs eligible under this article shall be equal to the share and amounts otherwise provided by the board pursuant to this chapter, including, but not limited to, any applicable adjustments or supplements otherwise authorized pursuant to this chapter.

(d) A school district that elects to utilize per-unhoused-pupil eligibility pursuant to this chapter to support a project pursuant to this article, shall not simultaneously utilize that same eligibility to support any other application pursuant to this chapter.

17078.18. Projects funded under this article shall meet all of the following criteria:

(a) The project is a new construction project to build new pupil capacity to relieve overcrowding.

(b) The proposed school facility shall be located in the proposed general location, as set forth in Section 17078.22, of the school or schools that have the conditions and pupils that establish the eligibility pursuant to this article as set forth in subdivision (c).

(c) At least 75 percent of the projected pupil occupancy of the project facilities shall come from a source school or source schools that have a site pupil population density greater than 115 pupils per acre in grades kindergarten to six, inclusive, or a site pupil population density greater than 90 pupils per acre in grades seven to 12, inclusive, as determined by the Superintendent of Public Instruction using enrollment data from the California Basic Educational Data System for the 2001–02 school year. For source schools with grades that include a combination of kindergarten to six, inclusive, and seven to 12, inclusive, the controlling source schoolsite pupil population density shall be the one applicable to the grade levels in which the majority of the pupils are enrolled at the source school.

17078.20. (a) The board shall disseminate information to school districts regarding the availability of funding pursuant to this article and the appropriate deadlines for applications.

(b) Applicants for funding pursuant to this article shall submit preliminary applications to the board.

(c) The preliminary applications shall be submitted by May 1, 2003, for projects to be funded with the proceeds of bonds approved by the voters at the November 5, 2002, statewide general election.

(d) Preliminary applications shall be accepted by the board during the period between 60 days before and 120 days after, the 2004 direct primary election, or the 2004 statewide general election, as appropriate for projects to be funded with the proceeds of bonds approved by the voters at the 2004 direct primary election.
(e) If funds are insufficient to fully fund all of the preliminary applicants, the board shall apportion first to those projects that would house pupils from source schools with the highest pupil density levels relative to the State Department of Education standards.

17078.22. (a) The preliminary applications shall do all of the following:

(1) Establish per-unhoused-pupil eligibility as set forth in Article 3 (commencing with Section 17071.75).

(2) Identify the unhoused pupil population that the proposed project will serve by determining the number of pupils to be served and the likely source school or schools from which the pupils population will be drawn.

(3) Identify the proposed general location of the needed new facilities pursuant to any of the following:

(A) Within that portion of the attendance area from which one or more elementary schools that would be a source of the per-pupil eligibility for the proposed facility draws its enrollment, or within a one-mile radius of a source school, or within a one-mile radius of any one of the source schools if there are more than one, whichever is greater.

(B) Within the attendance area of a high school, middle school, or junior high school that would be a source of the per-pupil eligibility for the proposed facility or within a three-mile radius of a source school, or within a three-mile radius of any one of the source schools if there are more than one, whichever is greater.

(4) Estimate the total facility cost on a per-pupil basis and estimate the total site acquisition and development costs pursuant to the regulations adopted pursuant to subdivision (c) of Section 17078.24.

(b) The State Department of Education may grant a variance from the distance maximums set forth in paragraph (3) of subdivision (a) if the school district demonstrates to the satisfaction of the department that the variance is necessary in order to adequately provide facilities for the identified source school pupils.

17078.24. (a) On the basis of the preliminary application and upon confirmation by the board of the applicant’s eligibility, the board shall in a timely manner make a preliminary apportionment for applicants under this article exclusively from funds reserved expressly for the purposes of this article.

(b) Preliminary apportionments for site development and acquisition included in the preliminary application pursuant to subdivision (a) of Section 17078.22 shall be based either on the preliminary appraisal, if available, or on the median costs of appropriately sized parcels within the qualifying area, as determined by the board.

(c) Preliminary apportionments shall include the total estimated state costs of the project, including, but not limited to, site acquisition and
development costs related to evaluations and elimination of hazardous materials, an inflation factor, any applicable excess cost allowances, and hardship costs, if any. The board shall adopt regulations establishing standards and methods for setting these costs and for making related estimates.

17078.25. (a) Within the maximum time period set forth in Section 17078.30, the applicant shall have a period of up to four years from the date of the preliminary apportionment in which to complete the application for final apportionment.

(b) The applicant may request a single one-year extension of the period set forth in subdivision (a). The board shall grant the request for the single one-year extension if it determines that the applicant has made substantial progress towards completing the requirements for filing an application for final apportionment. The board may grant only one one-year extension for the project and may only grant the extension if granting the extension would not, in total, cause the project to exceed the maximum time period set forth in Section 17078.30.

(c) The board shall adopt regulations setting forth standards for determining the existence of substantial progress within the meaning of subdivision (b).

(d) The governing board of a school district shall report annually to the State Allocation Board regarding the progress made toward completing the requirements for filing an application for final apportionment, and shall annually hold, at a regularly scheduled meeting of the governing board, a public hearing pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code) to discuss, and to receive public comment regarding, the report.

(e) In its first annual report the governing board of the school district shall certify that the State Department of Education has determined in writing that there is at least one approvable site within the proposed general location of the proposed facility identified pursuant to paragraph (3) of subdivision (a) of Section 17078.22, or within the variance location authorized pursuant to subdivision (b) of Section 17078.22.

(f) If the applicant for the one-year extension pursuant to subdivision (b) has not made substantial progress to complete the application process within the allotted time period, the preliminary apportionment shall be rescinded and shall be utilized by the board for funding of other projects that have received a preliminary apportionment pursuant to this article, or at the expiration of the maximum time allowed pursuant to Section 17078.30, the board shall use the funds for any other new construction purpose of this chapter.

17078.27. (a) Upon completion of the preliminary process authorized pursuant to this article, and when a preliminary applicant has
complied with the conditions set forth in this chapter for a final apportionment, including, but not limited to, Section 17070.50, the board shall adjust the preliminary apportionment as set forth in subdivision (b) and as necessary to reflect the current eligible grant amounts for final apportionments pursuant to this chapter consistent with regulations adopted pursuant to subdivision (c) of Section 17078.24. The board shall then convert the adjusted preliminary apportionment to a final apportionment and proceed to completion of the project in the same manner as for any project funded under provisions of this chapter other than this article.

(b) The board may adjust for cost increases only if uncommitted funds reserved expressly for the purposes of this article remain available for those purposes.

17078.30. (a) (1) A portion of the funds reserved for the purposes set forth in this article from the proceeds of state bonds approved by the voters at the November 5, 2002, statewide general election that are not included in a preliminary apportionment for an application that is received by the deadline specified in subdivision (c) of Section 17078.20 shall thereafter be available to the board for apportionment for any new construction purpose under any other article of this chapter.

(2) The amount of funds that shall be made available to the board for purposes other than this article, pursuant to this subdivision, shall be calculated as follows:

(A) Add the total amount preliminarily apportioned to 15 percent of that amount.

(B) Take the number calculated pursuant to subparagraph (A) and subtract that number from the amount originally reserved for the purposes of this article.

(C) The number calculated pursuant to subparagraph (B) shall thereafter be available to the board for any new construction purpose under any other article of this chapter.

(3) All funds reserved for the purposes set forth in this article from the proceeds of state bonds approved by the voters at the November 5, 2002, statewide general election pursuant to a preliminary apportionment that are not included within a final apportionment within the timeframes permitted by Section 17078.25 shall thereafter be available to the board for apportionment for any new construction purpose under any other article of this chapter.

(b) (1) A portion of the funds reserved for the purposes set forth in this article from the proceeds of state bonds approved by the voters at the 2004 direct primary election that are not included in a preliminary apportionment for an application that is received by the deadline specified in subdivision (d) of Section 17078.20 shall thereafter be
available to the board for apportionment for any new construction purpose under any other article of this chapter.

(2) The amount of funds that shall be made available to the board for purposes other than this article, pursuant to this subdivision, shall be calculated as follows:

(A) Add the total amount preliminarily apportioned to 15 percent of that amount.

(B) Take the number calculated pursuant to subparagraph (A) and subtract that number from the amount originally reserved for the purposes of this article.

(C) The number calculated pursuant to subparagraph (B) shall thereafter be available to the board for any new construction purpose under any other article of this chapter.

(3) All funds reserved for the purposes set forth in this article from the proceeds of state bonds approved by the voters at the 2004 direct primary election pursuant to a preliminary apportionment that are not included within a final apportionment within the timeframes permitted by Section 17078.25 shall thereafter be available to the board for apportionment for any new construction purpose under any other article of this chapter.

SEC. 25. Section 17088.2 of the Education Code is amended to read:

17088.2. Notwithstanding any provision of law to the contrary, including, but not limited to, Section 17587, the board may transfer any funds within the State School Building Aid Fund that are in excess of the amounts needed by the board for the maintenance of portable buildings or for the purchase of new portable buildings, for that fiscal year, to any of the following, as appropriate:

(a) The 1998 State School Facilities Fund for allocation by the board for any purpose authorized pursuant to that fund.

(b) The 2002 State School Facilities Fund for allocation by the board for any purpose authorized pursuant to that fund.

(c) The 2004 State School Facilities Fund for allocation by the board for any purpose authorized pursuant to that fund.

(d) The State School Deferred Maintenance Fund for allocation by the board for any purpose authorized pursuant to that fund. The board may utilize up to 100 percent of the funds transferred by the board to the State School Deferred Maintenance Fund pursuant to this section for funding extreme hardship critical projects.

SEC. 26. Section 17251.5 is added to the Education Code, to read:

17251.5. Notwithstanding any law, when using exclusively local funds for acquisition of a potential schoolsite, a school district is not required to receive final approval of a site by the State Department of Education prior to adopting a resolution of necessity in an eminent
domain proceeding or prior to closing escrow on a site purchase through voluntary sale.

SEC. 27. Section 17262 of the Education Code is amended to read:

17262. Any school district may request sets of the plans and specifications obtained by the State Allocation Board as appropriate for use in constructing a school building of the type desired by the school district. The plans and specifications shall be furnished to the school district subject to the payment by the school district of the actual expense incurred by the State Allocation Board, but that payment shall not exceed more than 2 percent of the total cost of the project. Any payments received for the plans and specifications shall be paid into the 1998 State School Facilities Fund, the 2002 State School Facilities Fund, or the 2004 State School Facilities Fund, as appropriate.

SEC. 28. Section 17280 of the Education Code is amended to read:

17280. (a) (1) The Department of General Services under the police power of the state shall supervise the design and construction of any school building or the reconstruction or alteration of or addition to any school building, if not exempted under Section 17295, to ensure that plans and specifications comply with the rules and regulations adopted pursuant to this article and building standards published in Title 24 of the California Code of Regulations, and to ensure that the work of construction has been performed in accordance with the approved plans and specifications, for the protection of life and property. Nothing in this section shall be construed to allow a school district to perform work with its own forces in excess of the limitations set forth in Sections 17595 and 17599. In calculating the cost of any project of reconstruction or alteration of, or addition to, any school building for the purpose of determining the applicability of the rules and regulations adopted pursuant to this article and building standards published in Title 24 of the California Code of Regulations, the Department of General Services shall not include, as an element of that cost, any expenses of air-conditioning equipment or insulation materials for that building, or of installing the equipment or materials.

(2) In the alternative, for a leased or purchased building, a school district may comply with this section by complying with Section 17280.5.

(b) Whenever repairs due to fire damage, not including any damage caused by wind or earthquake, must be made to any school building previously approved by the Department of General Services, the approved plans and specifications used in the original work under then existing rules, regulations, and building standards may be used without modification, providing all other provisions of this article are carried out.
(c) Notwithstanding any other provision of law, no school district shall be authorized to construct or reconstruct any school building, regardless of the source of funding, unless and until the governing board of the district, by resolution, has indicated the agreement of the district that any school building construction or reconstruction that exceeds those construction costs and allowable area standards or any allowable building area computed for an attendance area pursuant to Section 17041 shall, in the event of the district’s subsequent application for state funding for school facility construction, be deducted from the allowable building area for which the district would otherwise have been eligible, which restriction shall not be subject to waiver or exception as otherwise may be provided by law.

(d) If it is determined that, for any reason, a school district failed to comply with the requirement of this section, the district shall not be eligible for any additional building area pursuant to Section 17049 and may be denied any time priority established for the particular project pursuant to Section 17016.

SEC. 29. Section 17280.5 is added to the Education Code, to read:

17280.5. (a) The Seismic Safety Commission shall convene an advisory committee that shall include, but not be limited to, the State Architect, the State Fire Marshall, representatives from the major professional associations representing architects, engineers, and school facilities designers, and other interested parties.

(b) The advisory committee shall convene by August 19, 2002, and shall study and report on whether a regulatory process may be developed that will allow the State Architect to determine whether a building not originally constructed in compliance with the Field Act, as defined in Section 17281, and its implementing regulations either meets, or can be retrofitted to meet, the equivalent pupil safety performance standard as a building constructed according to the Field Act and its implementing regulations. If the advisory committee finds that the regulatory process may be developed, the advisory committee, shall include within its report the facts and rationale supporting the finding and the essential steps required in that regulatory process. The advisory committee shall report its findings to the Seismic Safety Commission by December 31, 2002.

(c) By January 8, 2003, and after reviewing the advisory committee’s findings, the Seismic Safety Commission shall make a determination as to whether the regulatory process described in subdivision (b) may be developed, and shall report that determination to the Governor and the Legislature.

(d) If the Seismic Safety Commission determines that the regulatory process may be developed, the State Architect shall draft regulations to establish that regulatory process and to delineate the required
retrofitting, deconstructive testing, continuous inspection procedures, and other necessary certifications and requirements that must be completed for a building to ensure it meets the equivalent pupil safety performance standard as a building constructed according to the Field Act and its implementing regulations. The State Architect shall promulgate the regulations on or before April 1, 2003, as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(e) Notwithstanding any law, a leased or purchased building that is determined to have the equivalent pupil safety performance standard as a building constructed according to the Field Act and implementing regulations is hereby deemed to be in full compliance with the safety requirements of a school building as set forth in Section 17280, and is hereby deemed to be in full compliance with the Field Act.

SEC. 30. Part 68.1 (commencing with Section 100600) is added to the Education Code, to read:

PART 68.1. KINDERGARTEN-UNIVERSITY PUBLIC EDUCATION FACILITIES BOND ACT OF 2002

CHAPTER 1. GENERAL

100600. This part shall be known and may be cited as the Kindergarten-University Public Education Facilities Bond Act of 2002.

100601. The incorporation of, or reference to, any provision of California statutory law in this part includes all acts amendatory thereof and supplementary thereto.

100603. Bonds in the total amount of thirteen billion fifty million dollars ($13,050,000,000), not including the amount of any refunding bonds issued in accordance with Sections 100644 and 100755, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this part and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) Pursuant to this section, the Treasurer shall sell the bonds authorized by the State School Building Finance Committee established by Section 15909 or the Higher Education Facilities Finance Committee established pursuant to Section 67353, as the case may be, at any
different times necessary to service expenditures required by the apportionments.

**CHAPTER 2. KINDERGARTEN THROUGH 12TH GRADE**

**Article 1. Kindergarten Through 12th Grade School Facilities Program Provisions**

100610. The proceeds of bonds issued and sold pursuant to Article 2 (commencing with Section 100625) shall be deposited in the 2002 State School Facilities Fund, which is established in Section 17070.40, and shall be allocated by the State Allocation Board pursuant to this chapter.

100615. All moneys deposited in the 2002 State Facilities Fund for the purposes of this chapter shall be available and, notwithstanding any other provision of law to the contrary, are hereby appropriated to provide aid to school districts, county superintendents of schools, and county boards of education of the state in accordance with the Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10) of Part 10), as set forth in Section 100620, to provide funds to repay any money advanced or loaned to the 2002 State School Facilities Fund under any act of the Legislature, together with interest provided for in that act, and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code.

100620. (a) The proceeds from the sale of bonds, issued and sold for the purposes of this chapter, shall be allocated in accordance with the following schedule:

1. The amount of three billion four hundred fifty million dollars ($3,450,000,000) for new construction of school facilities of applicant school districts under Chapter 12.5 (commencing with Section 17070.10) of Part 10 for those school districts that file an application with the Office of Public School Construction after February 1, 2002, including, but not limited to, hardship applications.

2. Of the amount allocated pursuant to this paragraph, up to one hundred million dollars ($100,000,000) shall be available for providing school facilities to charter schools pursuant to a statute enacted after the effective date of the act enacting this section.

3. If the Housing and Emergency Shelter Trust Fund Act of 2002 is submitted to the voters at the November 5, 2002, general election and fails passage by the voters, of the amount allocated pursuant to this paragraph, twenty-five million dollars ($25,000,000) shall be available for the purposes of Sections 51451.5, 51453, and 51455 of the Health and Safety Code.
(2) The amount of one billion four hundred million dollars ($1,400,000,000) for the modernization of school facilities pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10 for those school districts that file an application with the Office of Public School Construction after February 1, 2002, including, but not limited to, hardship applications.

(3) The amount of two billion nine hundred million dollars ($2,900,000,000) for new construction of school facilities pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10 for those school districts that have filed an application with the Office of Public School Construction on or before February 1, 2002, including, but not limited to, hardship applications. If the amount made available for purposes of this paragraph is not needed and expended for the purposes of this paragraph, the State Allocation Board may allocate the remainder of these funds for purposes of paragraph (1).

(4) The amount of one billion nine hundred million dollars ($1,900,000,000) for the modernization of school facilities pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10, for those school districts that have filed an application with the Office of Public School Construction on or before February 1, 2002, including, but not limited to, hardship applications. If the amount made available for purposes of this paragraph is not needed and expended for the purposes of this paragraph, the State Allocation Board may allocate these funds for purposes of paragraph (2).

(5) The amount of one billion seven hundred million dollars ($1,700,000,000) for deposit into the 2002 Critically Overcrowded School Facilities Account established within the 2002 State School Facilities Fund pursuant to subdivision (e) of Section 17078.10, for the purposes set forth in Article 11 (commencing with Section 17078.10) of Chapter 12.5 of Part 10 relating to critically overcrowded schools, including, but not limited to, hardship applications, and any other new construction or modernization projects as authorized pursuant to Section 17078.30.

(6) The amount of fifty million dollars ($50,000,000) for the purposes set forth in Article 10.6 (commencing with Section 17077.40) of Chapter 12.5 of Part 10 relating to joint-use projects, including, but not limited to, hardship applications.

(b) School districts may use funds allocated pursuant to paragraphs (2) and (4) of subdivision (a) only for one or more of the following purposes in accordance with Chapter 12.5 (commencing with Section 17070.10) of Part 10:

(1) The purchase and installation of air-conditioning equipment and insulation materials, and related costs.
(2) Construction projects or the purchase of furniture or equipment designed to increase school security or playground safety.

(3) The identification, assessment, or abatement in school facilities of hazardous asbestos.

(4) Project funding for high priority roof replacement projects.

(5) Any other modernization of facilities pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10.

(c) Funds allocated pursuant to paragraphs (1) and (3) of subdivision (a) may, also, be utilized to provide new construction grants for eligible applicant county boards of education under Chapter 12.5 (commencing with Section 17070.10) of Part 10 for funding classrooms for severely handicapped pupils, or for funding classrooms for county community school pupils.

(d) (1) The Legislature may amend this section to adjust the funding amounts specified in paragraphs (1) to (6), inclusive, of subdivision (a), only by either of the following methods:

(A) By a statute, passed in each house of the Legislature by rollcall vote entered in the respective journals, by not less than two-thirds of the membership in each house concurring, if the statute is consistent with, and furthers the purposes of, this chapter.

(B) By a statute that becomes effective only when approved by the voters.

(2) Amendments pursuant to this subdivision may adjust the amounts to be expended pursuant to paragraphs (1) to (6), inclusive, of subdivision (a), but may not increase or decrease the total amount to be expended pursuant to that subdivision.

(e) From the total amounts set forth in paragraphs (1) to (6), inclusive, of subdivision (a), a total of no more than twenty million dollars ($20,000,000) shall be used for the costs of energy conservation adjustments authorized pursuant to Section 17077.35.

(f) Funds available pursuant to this section may be used for acquisition of school facilities authorized pursuant to Section 17280.5.


100625. (a) Of the total amount of bonds authorized to be issued and sold pursuant to Chapter 1 (commencing with Section 100600), bonds in the total amount of eleven billion four hundred million dollars ($11,400,000,000) not including the amount of any refunding bonds issued in accordance with Section 100644, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section
16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) Pursuant to this section, the Treasurer shall sell the bonds authorized by the State School Building Finance Committee established pursuant to Section 15909 at any different times necessary to service expenditures required by the apportionments.

100627. The State School Building Finance Committee, established by Section 15909 and composed of the Governor, the Controller, the Treasurer, the Director of Finance, and the Superintendent of Public Instruction, or their designated representatives, all of whom shall serve thereon without compensation, and a majority of whom shall constitute a quorum, is continued in existence for the purpose of this chapter. The Treasurer shall serve as chairperson of the committee. Two Members of the Senate appointed by the Senate Committee on Rules, and two Members of the Assembly appointed by the Speaker of the Assembly, shall meet with and provide advice to the committee to the extent that the advisory participation is not incompatible with their respective positions as Members of the Legislature. For the purposes of this chapter, the Members of the Legislature shall constitute an interim investigating committee on the subject of this chapter and, as that committee, shall have the powers granted to, and duties imposed upon, those committees by the Joint Rules of the Senate and the Assembly. The Director of Finance shall provide assistance to the committee as it may require. The Attorney General of the state is the legal adviser of the committee.

100630. (a) The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law, except Section 16727 of the Government Code, apply to the bonds and to this chapter and are hereby incorporated into this chapter as though set forth in full within this chapter.

(b) For purposes of the State General Obligation Bond Law, the State Allocation Board is designated the “board” for purposes of administering the 2002 State School Facilities Fund.

100632. Upon request of the State Allocation Board from time to time, supported by a statement of the apportionments made and to be made for the purposes described in Sections 100615 and 100620, the State School Building Finance Committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to fund the apportionments and, if so, the amount of
bonds to be issued and sold. Successive issues of bonds may be authorized and sold to fund those apportionments progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

100634. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act that is necessary to collect that additional sum.

100635. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum necessary to carry out Section 100640, appropriated without regard to fiscal years.

100636. The State Allocation Board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account or any other approved form of interim financing, in accordance with Section 16312 of the Government Code, for the purpose of carrying out this chapter. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this chapter. The board shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

100638. Notwithstanding any other provision of this chapter, or of the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this chapter that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and for the investment earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or take any other action with respect to the investment and use of those bond proceeds required or desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.
100640. For the purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount not to exceed the amount of the unsold bonds that have been authorized by the State School Building Finance Committee to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the 2002 State School Facilities Fund consistent with this chapter. Any money made available under this section shall be returned to the General Fund, plus an amount equal to the interest that the money would have earned in the Pooled Money Investment Account, from proceeds received from the sale of bonds for the purpose of carrying out this chapter.

100642. All money deposited in the 2002 State School Facilities Fund, that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

100644. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds described in this chapter includes the approval of the issuance of any bonds issued to refund any bonds originally issued under this chapter or any previously issued refunding bonds.

100646. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not “proceeds of taxes” as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

CHAPTER 3. HIGHER EDUCATION FACILITIES

Article 1. General

100650. (a) The system of public higher education in this state includes the University of California, the Hastings College of the Law, the California State University, the California Community Colleges, and their respective off-campus centers.

(b) The 2002 Higher Education Capital Outlay Bond Fund is hereby established in the State Treasury for deposit of funds from the proceeds of bonds issued and sold for the purposes of this chapter.

(c) The Higher Education Facilities Finance Committee established pursuant to Section 67353 is hereby authorized to create a debt or debts, liability or liabilities, of the State of California pursuant to this chapter for the purpose of providing funds to aid the University of California, the
Hastings College of the Law, the California State University, and the California Community Colleges.

Article 2. Program Provisions Applicable to the University of California and the Hastings College of the Law

100652. (a) From the proceeds of bonds issued and sold pursuant to Article 5 (commencing with Section 100700), the sum of four hundred eight million two hundred sixteen thousand dollars ($408,216,000) shall be deposited in the 2002 Higher Education Capital Outlay Bond Fund for the purposes of this article. When appropriated, these funds shall be available for expenditure for the purposes of this article.

(b) The purposes of this article include assisting in meeting the capital outlay financing needs of the University of California and the Hastings College of the Law.

(c) Proceeds from the sale of bonds issued and sold for the purposes of this article may be used to fund construction on existing campuses, including the construction of buildings and the acquisition of related fixtures, construction of facilities that may be used by more than one segment of public higher education (intersegmental), the renovation and reconstruction of facilities, site acquisition, the equipping of new, renovated, or reconstructed facilities, which equipment shall have an average useful life of 10 years; and to provide funds for the payment of preconstruction costs, including, but not limited to, preliminary plans and working drawings for facilities of the University of California and the Hastings College of the Law.

Article 3. Program Provisions Applicable to the California State University

100653. (a) From the proceeds of bonds issued and sold pursuant to Article 5 (commencing with Section 100700), the sum of four hundred ninety-five million nine hundred thirty-two thousand dollars ($495,932,000) shall be deposited in the 2002 Higher Education Capital Outlay Bond Fund for the purposes of this article. When appropriated, these funds shall be available for expenditure for the purposes of this article.

(b) The purposes of this article include assisting in meeting the capital outlay financing needs of the California State University.

(c) Proceeds from the sale of bonds issued and sold for the purposes of this article may be used to fund construction on existing campuses, including the construction of buildings and the acquisition of related fixtures, construction of facilities that may be used by more than one segment of public higher education (intersegmental), the renovation and
reconstruction of facilities, site acquisition, the equipping of new, renovated, or reconstructed facilities, which equipment shall have an average useful life of 10 years; and to provide funds for the payment of preconstruction costs, including, but not limited to, preliminary plans and working drawings for facilities of the California State University.

Article 4. Program Provisions Applicable to the California Community Colleges

100654. (a) From the proceeds of bonds issued and sold pursuant to Article 5 (commencing with Section 100700), the sum of seven hundred forty-five million eight hundred fifty-three thousand dollars ($745,853,000) shall be deposited in the 2002 Higher Education Capital Outlay Bond Fund for the purposes of this article. When appropriated, these funds shall be available for expenditure for the purposes of this article.

(b) The purposes of this article include assisting in meeting the capital outlay financing needs of the California Community Colleges.

(c) Proceeds from the sale of bonds issued and sold for the purposes of this article may be used to fund construction on existing campuses, including the construction of buildings and the acquisition of related fixtures, construction of facilities that may be used by more than one segment of public higher education (intersegmental), the renovation and reconstruction of facilities, site acquisition, the equipping of new, renovated, or reconstructed facilities, which equipment shall have an average useful life of 10 years; and to provide funds for the payment of preconstruction costs, including, but not limited to, preliminary plans and working drawings for facilities of the California Community Colleges.


100700. (a) Of the total amount of bonds authorized to be issued and sold pursuant to Chapter 1 (commencing with Section 100600), bonds in the total amount of one billion six hundred fifty million dollars ($1,650,000,000), not including the amount of any refunding bonds issued in accordance with Section 100755, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for
the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) It is the intent of the Legislature that the University of California, the California State University, and the California Community Colleges annually consider, as part of their annual capital outlay planning process, the inclusion of facilities that may be used by more than one segment of public higher education (intersegmental), and, that on or before May 15th of each year, those entities report their findings to the budget committees of each house of the Legislature.

(c) Pursuant to this section, the Treasurer shall sell the bonds authorized by the Higher Education Facilities Finance Committee established pursuant to Section 67353 at any different times necessary to service expenditures required by the apportionments.

100710. (a) The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law, except Section 16727 of the Government Code, apply to the bonds and to this chapter and are hereby incorporated into this chapter as though set forth in full within this chapter.

(b) For the purposes of the State General Obligation Bond Law, each state agency administering an appropriation of the 2002 Higher Education Capital Outlay Bond Fund is designated as the “board” for projects funded pursuant to this chapter.

(c) The proceeds of the bonds issued and sold pursuant to this chapter shall be available for the purpose of funding aid to the University of California, the Hastings College of the Law, the California State University, and the California Community Colleges, for the construction on existing or new campuses, and their respective off-campus centers and joint use and intersegmental facilities, as set forth in this chapter.

100720. The Higher Education Facilities Finance Committee established pursuant to Section 67353 shall authorize the issuance of bonds under this chapter only to the extent necessary to fund the apportionments for the purposes described in this chapter that are expressly authorized by the Legislature in the annual Budget Act. Pursuant to that legislative direction, the committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the purposes described in this chapter and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

100725. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the
ordinary revenues of the state, a sum in an amount required to pay the
principal of, and interest on, the bonds each year. It is the duty of all
officers charged by law with any duty in regard to the collection of the
revenue to do and perform each and every act which is necessary to
collect that additional sum.

100730. Notwithstanding Section 13340 of the Government Code,
there is hereby appropriated from the General Fund in the State Treasury,
for the purposes of this chapter, an amount that will equal the total of the
following:

(a) The sum annually necessary to pay the principal of, and interest
on, bonds issued and sold pursuant to this chapter, as the principal and
interest become due and payable.

(b) The sum necessary to carry out Section 100745, appropriated
without regard to fiscal years.

100735. The board, as defined in subdivision (b) of Section 100710,
may request the Pooled Money Investment Board to make a loan from
the Pooled Money Investment Account or any other approved form of
interim financing, in accordance with Section 16312 of the Government
Code, for the purpose of carrying out this chapter. The amount of the
request shall not exceed the amount of the unsold bonds that the
committee, by resolution, has authorized to be sold for the purpose of
carrying out this chapter. The board, as defined in subdivision (b) of
Section 100710, shall execute any documents required by the Pooled
Money Investment Board to obtain and repay the loan. Any amounts
loaned shall be deposited in the fund to be allocated by the board in
accordance with this chapter.

100740. Notwithstanding any other provision of this chapter, or of
the State General Obligation Bond Law, if the Treasurer sells bonds
pursuant to this chapter that include a bond counsel opinion to the effect
that the interest on the bonds is excluded from gross income for federal
tax purposes, subject to designated conditions, the Treasurer may
maintain separate accounts for the investment of bond proceeds and for
the investment earnings on those proceeds. The Treasurer may use or
direct the use of those proceeds or earnings to pay any rebate, penalty,
or other payment required under federal law or take any other action with
respect to the investment and use of those bond proceeds required or
desirable under federal law to maintain the tax-exempt status of those
bonds and to obtain any other advantage under federal law on behalf of
the funds of this state.

100745. (a) For the purposes of carrying out this chapter, the
Director of Finance may authorize the withdrawal from the General
Fund of an amount not to exceed the amount of the unsold bonds that
have been authorized by the Higher Education Facilities Finance
Committee to be sold for the purpose of carrying out this chapter. Any
amounts withdrawn shall be deposited in the 2002 Higher Education Capital Outlay Bond Fund consistent with this chapter. Any money made available under this section shall be returned to the General Fund, plus an amount equal to the interest that the money would have earned in the Pooled Money Investment Account, from proceeds received from the sale of bonds for the purpose of carrying out this chapter.

(b) Any request forwarded to the Legislature and the Department of Finance for funds from this bond issue for expenditure for the purposes described in this chapter by the University of California, the Hastings College of the Law, the California State University, or the California Community Colleges shall be accompanied by the five-year capital outlay plan. Requests forwarded by a university or college shall include a schedule that prioritizes the seismic retrofitting needed to significantly reduce, in the judgment of the particular university or college, seismic hazards in buildings identified as high priority by the university or college. Requests forwarded by the California Community Colleges shall be accompanied by a five-year capital outlay plan reflecting the needs and priorities of the community college system, prioritized on a statewide basis.

100750. All money deposited in the 2002 Higher Education Capital Outlay Bond Fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

100755. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds described in this chapter includes the approval of the issuance of any bonds issued to refund any bonds originally issued under this chapter or any previously issued refunding bonds.

100760. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not “proceeds of taxes” as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

SEC. 31. Part 68.2 (commencing with Section 100800) is added to the Education Code, to read:
CHAPTER 1. GENERAL

100800. This part shall be known and may be cited as the Kindergarten-University Public Education Facilities Bond Act of 2004.

100801. The incorporation of, or reference to, any provision of California statutory law in this part includes all acts amendatory thereof and supplementary thereto.

100803. (a) Bonds in the total amount of twelve billion three hundred million dollars ($12,300,000,000), not including the amount of any refunding bonds issued in accordance with Sections 100844 and 100955, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this part and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) Pursuant to this section, the Treasurer shall sell the bonds authorized by the State School Building Finance Committee established by Section 15909 or the Higher Education Facilities Finance Committee established pursuant to Section 67353, as the case may be, at any different times necessary to service expenditures required by the apportionments.

CHAPTER 2. KINDERGARTEN THROUGH 12TH GRADE


100810. The proceeds of bonds issued and sold pursuant to Article 2 (commencing with Section 100825) shall be deposited in the 2004 State School Facilities Fund, which is established in Section 17070.40, and shall be allocated by the State Allocation Board pursuant to this chapter.

100815. All moneys deposited in the 2004 State Facilities Fund for the purposes of this chapter shall be available and, notwithstanding any other provision of law to the contrary, are hereby appropriated to provide aid to school districts, county superintendents of schools, and county boards of education of the state in accordance with the Leroy F. Greene
School Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10) of Part 10), as set forth in Section 100820, to provide funds to repay any money advanced or loaned to the 2004 State School Facilities Fund under any act of the Legislature, together with interest provided for in that act, and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code.

100820. (a) The proceeds from the sale of bonds, issued and sold for the purposes of this chapter, as specified in subdivision (a) of Section 100810 shall be allocated in accordance with the following schedule:

(1) The amount of five billion two hundred sixty million dollars ($5,260,000,000) for project funding for new construction of school facilities of applicant school districts under Chapter 12.5 (commencing with Section 17070.10) of Part 10, including, but not limited to, hardship applications.

(A) Of the amount allocated pursuant to this paragraph, up to three hundred million dollars ($300,000,000) shall be available for providing school facilities to charter schools pursuant to a statute enacted after the effective date of the act enacting this section.

(B) If the Housing and Emergency Shelter Trust Fund Act of 2002 is submitted to the voters at the November 5, 2002, general election and fails passage by the voters, of the amount allocated pursuant to this paragraph, twenty-five million dollars ($25,000,000) shall be available for the purposes of Sections 51451.5, 51453, and 51455 of the Health and Safety Code.

(2) The amount of two billion two hundred fifty million dollars ($2,250,000,000) for the modernization of school facilities pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10, including, but not limited to, hardship applications.

(3) The amount of two billion four hundred forty million dollars ($2,440,000,000) for deposit into the 2004 Critically Overcrowded School Facilities Account established within the 2004 State School Facilities Fund pursuant to subdivision (e) of Section 17078.10 for the purposes set forth in Article 11 (commencing with Section 17078.10) of Chapter 12.5 of Part 10 relating to critically overcrowded schools, including, but not limited to, hardship applications, and any other new construction or modernization projects as authorized pursuant to Section 17078.30.

(4) The amount of fifty million dollars ($50,000,000) for the purposes set forth in Article 10.6 (commencing with Section 17077.40) of Chapter 12.5 of Part 10 relating to joint-use projects, including, but not limited to, hardship applications.

(b) School districts may use funds allocated pursuant to paragraph (2) of subdivision (a) only for one or more of the following purposes in
accordance with Chapter 12.5 (commencing with Section 17070.10) of Part 10:

(1) The purchase and installation of air-conditioning equipment and insulation materials, and related costs.

(2) Construction projects or the purchase of furniture or equipment designed to increase school security or playground safety.

(3) The identification, assessment, or abatement in school facilities of hazardous asbestos.

(4) Project funding for high priority roof replacement projects.

(5) Any other modernization of facilities pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10.

(c) Funds allocated pursuant to paragraph (1) of subdivision (a) may, also, be utilized to provide new construction grants for eligible applicant county boards of education under Chapter 12.5 (commencing with Section 17070.10) of Part 10 for funding classrooms for severely handicapped pupils, or for funding classrooms for county community school pupils.

(d) (1) The Legislature may amend this section to adjust the funding amounts specified in paragraphs (1) to (4), inclusive, of subdivision (a), only by either of the following methods:

(A) By a statute, passed in each house of the Legislature by rollcall vote entered in the respective journals, by not less than two-thirds of the membership in each house concurring, if the statute is consistent with, and furthers the purposes of, this chapter.

(B) By a statute that becomes effective only when approved by the voters.

(2) Amendments pursuant to this subdivision may adjust the amounts to be expended pursuant to paragraphs (1) to (4), inclusive, of subdivision (a), but may not increase or decrease the total amount to be expended pursuant to that subdivision.

(e) From the total amounts set forth in paragraphs (1) to (6), inclusive, of subdivision (a), a total of no more than twenty million dollars ($20,000,000) shall be used for the costs of energy conservation adjustments authorized pursuant to Section 17077.35.

(f) Funds available pursuant to this section may be used for acquisition of school facilities authorized pursuant to Section 17280.5.


100825. (a) Of the total amount of bonds authorized to be issued and sold pursuant to Chapter 1 (commencing with Section 100800), bonds in the total amount of ten billion dollars ($10,000,000,000), not including the amount of any refunding bonds issued in accordance with
Section 100844, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) Pursuant to this section, the Treasurer shall sell the bonds authorized by the State School Building Finance Committee established pursuant to Section 15909 at any different times necessary to service expenditures required by the apportionments.

100827. The State School Building Finance Committee, established by Section 15909 and composed of the Governor, the Controller, the Treasurer, the Director of Finance, and the Superintendent of Public Instruction, or their designated representatives, all of whom shall serve thereon without compensation, and a majority of whom shall constitute a quorum, is continued in existence for the purpose of this chapter. The Treasurer shall serve as chairperson of the committee. Two Members of the Senate appointed by the Senate Committee on Rules, and two Members of the Assembly appointed by the Speaker of the Assembly, shall meet with and provide advice to the committee to the extent that the advisory participation is not incompatible with their respective positions as Members of the Legislature. For the purposes of this chapter, the Members of the Legislature shall constitute an interim investigating committee on the subject of this chapter and, as that committee, shall have the powers granted to, and duties imposed upon, those committees by the Joint Rules of the Senate and the Assembly. The Director of Finance shall provide assistance to the committee as it may require. The Attorney General of the state is the legal adviser of the committee.

100830. (a) The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law, except Section 16727 of the Government Code, apply to the bonds and to this chapter and are hereby incorporated into this chapter as though set forth in full within this chapter.

(b) For purposes of the State General Obligation Bond Law, the State Allocation Board is designated the “board” for purposes of administering the 2004 State School Facilities Fund.

100832. Upon request of the State Allocation Board from time to time, supported by a statement of the apportionments made and to be
made for the purposes described in Sections 100815 and 100820, the State School Building Finance Committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to fund the apportionments and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to fund those apportionments progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

100834. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act that is necessary to collect that additional sum.

100835. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum necessary to carry out Section 100840, appropriated without regard to fiscal years.

100836. The State Allocation Board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account or any other approved form of interim financing, in accordance with Section 16312 of the Government Code, for the purpose of carrying out this chapter. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this chapter. The board shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

100838. Notwithstanding any other provision of this chapter, or of the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this chapter that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and for the investment earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or take any other action with respect to the investment and use of those bond proceeds required or
desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

100840. For the purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount not to exceed the amount of the unsold bonds that have been authorized by the State School Building Finance Committee to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the 2004 State School Facilities Fund consistent with this chapter. Any money made available under this section shall be returned to the General Fund, plus an amount equal to the interest that the money would have earned in the Pooled Money Investment Account, from proceeds received from the sale of bonds for the purpose of carrying out this chapter.

100842. All money deposited in the 2004 State School Facilities Fund, that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

100844. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds described in this chapter includes the approval of the issuance of any bonds issued to refund any bonds originally issued under this chapter or any previously issued refunding bonds.

100846. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not “proceeds of taxes” as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

CHAPTER 3. HIGHER EDUCATION FACILITIES

Article 1. General

100850. (a) The system of public higher education in this state includes the University of California, the Hastings College of the Law, the California State University, the California Community Colleges, and their respective off-campus centers.

(b) The 2004 Higher Education Capital Outlay Bond Fund is hereby established in the State Treasury for deposit of funds from the proceeds of bonds issued and sold for the purposes of this chapter.

(c) The Higher Education Facilities Finance Committee established pursuant to Section 67353 is hereby authorized to create a debt or debts,
Article 2. Program Provisions Applicable to the University of California and the Hastings College of the Law

100852. (a) From the proceeds of bonds issued and sold pursuant to Article 5 (commencing with Section 100900), the sum of six hundred ninety million dollars ($690,000,000) shall be deposited in the 2004 Higher Education Capital Outlay Bond Fund for the purposes of this article. When appropriated, these funds shall be available for expenditure for the purposes of this article.

(b) The purposes of this article include assisting in meeting the capital outlay financing needs of the University of California and the Hastings College of the Law.

(c) Proceeds from the sale of bonds issued and sold for the purposes of this article may be used to fund construction on existing campuses, including the construction of buildings and the acquisition of related fixtures, construction of facilities that may be used by more than one segment of public higher education (intersegmental), the renovation and reconstruction of facilities, site acquisition, the equipping of new, renovated, or reconstructed facilities, which equipment shall have an average useful life of 10 years; and to provide funds for the payment of preconstruction costs, including, but not limited to, preliminary plans and working drawings for facilities of the University of California and the Hastings College of the Law.

Article 3. Program Provisions Applicable to the California State University

100853. (a) From the proceeds of bonds issued and sold pursuant to Article 5 (commencing with Section 100900), the sum of six hundred ninety million dollars ($690,000,000) shall be deposited in the 2004 Higher Education Capital Outlay Bond Fund for the purposes of this article. When appropriated, these funds shall be available for expenditure for the purposes of this article.

(b) The purposes of this article include assisting in meeting the capital outlay financing needs of the California State University.

(c) Proceeds from the sale of bonds issued and sold for the purposes of this article may be used to fund construction on existing campuses, including the construction of buildings and the acquisition of related fixtures, construction of facilities that may be used by more than one
segment of public higher education (intersegmental), the renovation and reconstruction of facilities, site acquisition, the equipping of new, renovated, or reconstructed facilities, which equipment shall have an average useful life of 10 years; and to provide funds for the payment of preconstruction costs, including, but not limited to, preliminary plans and working drawings for facilities of the California State University.

Article 4. Program Provisions Applicable to the California Community Colleges

100854. (a) From the proceeds of bonds issued and sold pursuant to Article 5 (commencing with Section 100900), the sum of nine hundred twenty million dollars ($920,000,000) shall be deposited in the 2004 Higher Education Capital Outlay Bond Fund for the purposes of this article. When appropriated, these funds shall be available for expenditure for the purposes of this article.

(b) The purposes of this article include assisting in meeting the capital outlay financing needs of the California Community Colleges.

(c) Proceeds from the sale of bonds issued and sold for the purposes of this article may be used to fund construction on existing campuses, including the construction of buildings and the acquisition of related fixtures, construction of facilities that may be used by more than one segment of public higher education (intersegmental), the renovation and reconstruction of facilities, site acquisition, the equipping of new, renovated, or reconstructed facilities, which equipment shall have an average useful life of 10 years; and to provide funds for the payment of preconstruction costs, including, but not limited to, preliminary plans and working drawings for facilities of the California Community Colleges.


100900. (a) Of the total amount of bonds authorized to be issued and sold pursuant to Chapter 1 (commencing with Section 100800), bonds in the total amount of two billion three hundred million dollars ($2,300,000,000), not including the amount of any refunding bonds issued in accordance with Section 100955, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for
the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) It is the intent of the Legislature that the University of California, the California State University, and the California Community Colleges annually consider, as part of their annual capital outlay planning process, the inclusion of facilities that may be used by more than one segment of public higher education (intersegmental), and, that on or before May 15th of each year, those entities report their findings to the budget committees of each house of the Legislature.

(c) Pursuant to this section, the Treasurer shall sell the bonds authorized by the Higher Education Facilities Finance Committee established pursuant to Section 67353 at any different times necessary to service expenditures required by the apportionments.

100910. (a) The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law, except Section 16727 of the Government Code, apply to the bonds and to this chapter and are hereby incorporated into this chapter as though set forth in full within this chapter.

(b) For the purposes of the State General Obligation Bond Law, each state agency administering an appropriation of the 2004 Higher Education Capital Outlay Bond Fund is designated as the “board” for projects funded pursuant to this chapter.

(c) The proceeds of the bonds issued and sold pursuant to this chapter shall be available for the purpose of funding aid to the University of California, the Hastings College of the Law, the California State University, and the California Community Colleges, for the construction on existing or new campuses, and their respective off-campus centers and joint use and intersegmental facilities, as set forth in this chapter.

100920. The Higher Education Facilities Finance Committee established pursuant to Section 67353 shall authorize the issuance of bonds under this chapter only to the extent necessary to fund the apportionments for the purposes described in this chapter that are expressly authorized by the Legislature in the annual Budget Act. Pursuant to that legislative direction, the committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the purposes described in this chapter and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

100925. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the
ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which is necessary to collect that additional sum.

100930. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum necessary to carry out Section 100945, appropriated without regard to fiscal years.

100935. The board, as defined in subdivision (b) of Section 100910, may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account or any other approved form of interim financing, in accordance with Section 16312 of the Government Code, for the purpose of carrying out this chapter. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this chapter. The board, as defined in subdivision (b) of Section 100910, shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

100940. Notwithstanding any other provision of this chapter, or of the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this chapter that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and for the investment earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or take any other action with respect to the investment and use of those bond proceeds required or desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

100945. (a) For the purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount not to exceed the amount of the unsold bonds that have been authorized by the Higher Education Facilities Finance Committee to be sold for the purpose of carrying out this chapter. Any
amounts withdrawn shall be deposited in the 2004 Higher Education Capital Outlay Bond Fund consistent with this chapter. Any money made available under this section shall be returned to the General Fund, plus an amount equal to the interest that the money would have earned in the Pooled Money Investment Account, from proceeds received from the sale of bonds for the purpose of carrying out this chapter.

(b) Any request forwarded to the Legislature and the Department of Finance for funds from this bond issue for expenditure for the purposes described in this chapter by the University of California, the Hastings College of the Law, the California State University, or the California Community Colleges shall be accompanied by the five-year capital outlay plan. Requests forwarded by a university or college shall include a schedule that prioritizes the seismic retrofitting needed to significantly reduce, in the judgment of the particular university or college, seismic hazards in buildings identified as high priority by the university or college. Requests forwarded by the California Community Colleges shall be accompanied by a five-year capital outlay plan reflecting the needs and priorities of the community college system, prioritized on a statewide basis.

100950. All money deposited in the 2004 Higher Education Capital Outlay Bond Fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

100955. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds described in this chapter includes the approval of the issuance of any bonds issued to refund any bonds originally issued under this chapter or any previously issued refunding bonds.

100960. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not “proceeds of taxes” as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

SEC. 31.5. Part 68.2 (commencing with Section 100800) is added to the Education Code, to read:
PART 68.2. KINDERGARTEN-UNIVERSITY PUBLIC EDUCATION FACILITIES BOND ACT OF 2004

CHAPTER 1. GENERAL

100800. This part shall be known and may be cited as the Kindergarten-University Public Education Facilities Bond Act of 2004.

100801. The incorporation of, or reference to, any provision of California statutory law in this part includes all acts amendatory thereof and supplementary thereto.

100803. (a) Bonds in the total amount of twelve billion three hundred million dollars ($12,300,000,000), not including the amount of any refunding bonds issued in accordance with Sections 100844 and 100955, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this part and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) Pursuant to this section, the Treasurer shall sell the bonds authorized by the State School Building Finance Committee established by Section 15909 or the Higher Education Facilities Finance Committee established pursuant to Section 67353, as the case may be, at any different times necessary to service expenditures required by the apportionments.

CHAPTER 2. KINDERGARTEN THROUGH 12TH GRADE


100810. The proceeds of bonds issued and sold pursuant to Article 2 (commencing with Section 100825) shall be deposited in the 2004 State School Facilities Fund, which is established in Section 17070.40, and shall be allocated by the State Allocation Board pursuant to this chapter.

100815. All moneys deposited in the 2004 State Facilities Fund for the purposes of this chapter shall be available and, notwithstanding any other provision of law to the contrary, are hereby appropriated to provide aid to school districts, county superintendents of schools, and county boards of education of the state in accordance with the Leroy F. Greene
School Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10) of Part 10), as set forth in Section 100820, to provide funds to repay any money advanced or loaned to the 2004 State School Facilities Fund under any act of the Legislature, together with interest provided for in that act, and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code.

100820. (a) The proceeds from the sale of bonds, issued and sold for the purposes of this chapter, as specified in subdivision (a) of Section 100810 shall be allocated in accordance with the following schedule:

(1) The amount of five billion two hundred sixty million dollars ($5,260,000,000) for project funding for new construction of school facilities of applicant school districts under Chapter 12.5 (commencing with Section 17070.10) of Part 10, including, but not limited to, hardship applications.

(A) Of the amount allocated pursuant to this paragraph, up to three hundred million dollars ($300,000,000) shall be available for providing school facilities to charter schools pursuant to a statute enacted after the effective date of the act enacting this section. 

(B) If the Housing and Emergency Shelter Trust Fund Act of 2002 is submitted to the voters at the November 5, 2002, general election and fails passage by the voters, of the amount allocated pursuant to this paragraph, twenty-five million dollars ($25,000,000) shall be available for the purposes of Sections 51451.5, 51453, and 51455 of the Health and Safety Code.

(2) The amount of two billion two hundred fifty million dollars ($2,250,000,000) for the modernization of school facilities pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10, including, but not limited to, hardship applications.

(3) The amount of two billion four hundred forty million dollars ($2,440,000,000) for deposit into the 2004 Critically Overcrowded School Facilities Account established within the 2004 State School Facilities Fund pursuant to subdivision (e) of Section 17078.10 for the purposes set forth in Article 11 (commencing with Section 17078.10) of Chapter 12.5 of Part 10 relating to critically overcrowded schools, including, but not limited to, hardship applications, and any other new construction or modernization projects as authorized pursuant to Section 17078.30.

(4) The amount of fifty million dollars ($50,000,000) for the purposes set forth in Article 10.6 (commencing with Section 17077.40) of Chapter 12.5 of Part 10 relating to joint-use projects, including, but not limited to, hardship applications.

(b) School districts may use funds allocated pursuant to paragraph (2) of subdivision (a) only for one or more of the following purposes in
accordance with Chapter 12.5 (commencing with Section 17070.10) of Part 10:

(1) The purchase and installation of air-conditioning equipment and insulation materials, and related costs.

(2) Construction projects or the purchase of furniture or equipment designed to increase school security or playground safety.

(3) The identification, assessment, or abatement in school facilities of hazardous asbestos.

(4) Project funding for high priority roof replacement projects.

(5) Any other modernization of facilities pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10.

(c) Funds allocated pursuant to paragraph (1) of subdivision (a) may, also, be utilized to provide new construction grants for eligible applicant county boards of education under Chapter 12.5 (commencing with Section 17070.10) of Part 10 for funding classrooms for severely handicapped pupils, or for funding classrooms for county community school pupils.

(d) (1) The Legislature may amend this section to adjust the funding amounts specified in paragraphs (1) to (4), inclusive, of subdivision (a), only by either of the following methods:

(A) By a statute, passed in each house of the Legislature by rollcall vote entered in the respective journals, by not less than two-thirds of the membership in each house concurring, if the statute is consistent with, and furthers the purposes of, this chapter.

(B) By a statute that becomes effective only when approved by the voters.

(2) Amendments pursuant to this subdivision may adjust the amounts to be expended pursuant to paragraphs (1) to (4), inclusive, of subdivision (a), but may not increase or decrease the total amount to be expended pursuant to that subdivision.

(e) From the total amounts set forth in paragraphs (1) to (6), inclusive, of subdivision (a), a total of no more than twenty million dollars ($20,000,000) shall be used for the costs of energy conservation adjustments authorized pursuant to Section 17077.35.

(f) Funds available pursuant to this section may be used for acquisition of school facilities authorized pursuant to Section 17280.5.


100825. (a) Of the total amount of bonds authorized to be issued and sold pursuant to Chapter 1 (commencing with Section 100800), bonds in the total amount of ten billion dollars ($10,000,000,000), not including the amount of any refunding bonds issued in accordance with
Section 100844, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) Pursuant to this section, the Treasurer shall sell the bonds authorized by the State School Building Finance Committee established pursuant to Section 15909 at any different times necessary to service expenditures required by the apportionments.

100827. The State School Building Finance Committee, established by Section 15909 and composed of the Governor, the Controller, the Treasurer, the Director of Finance, and the Superintendent of Public Instruction, or their designated representatives, all of whom shall serve thereon without compensation, and a majority of whom shall constitute a quorum, is continued in existence for the purpose of this chapter. The Treasurer shall serve as chairperson of the committee. Two Members of the Senate appointed by the Senate Committee on Rules, and two Members of the Assembly appointed by the Speaker of the Assembly, shall meet with and provide advice to the committee to the extent that the advisory participation is not incompatible with their respective positions as Members of the Legislature. For the purposes of this chapter, the Members of the Legislature shall constitute an interim investigating committee on the subject of this chapter and, as that committee, shall have the powers granted to, and duties imposed upon, those committees by the Joint Rules of the Senate and the Assembly. The Director of Finance shall provide assistance to the committee as it may require. The Attorney General of the state is the legal adviser of the committee.

100830. (a) The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law, except Section 16727 of the Government Code, apply to the bonds and to this chapter and are hereby incorporated into this chapter as though set forth in full within this chapter.

(b) For purposes of the State General Obligation Bond Law, the State Allocation Board is designated the “board” for purposes of administering the 2004 State School Facilities Fund.

100832. Upon request of the State Allocation Board from time to time, supported by a statement of the apportionments made and to be
made for the purposes described in Sections 100815 and 100820, the State School Building Finance Committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to fund the apportionments and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to fund those apportionments progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

100834. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act that is necessary to collect that additional sum.

100835. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum necessary to carry out Section 100840, appropriated without regard to fiscal years.

100836. The State Allocation Board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account or any other approved form of interim financing, in accordance with Section 16312 of the Government Code, for the purpose of carrying out this chapter. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this chapter. The board shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

100838. Notwithstanding any other provision of this chapter, or of the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this chapter that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and for the investment earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or take any other action with respect to the investment and use of those bond proceeds required or
desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

100840. For the purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount not to exceed the amount of the unsold bonds that have been authorized by the State School Building Finance Committee to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the 2004 State School Facilities Fund consistent with this chapter. Any money made available under this section shall be returned to the General Fund, plus an amount equal to the interest that the money would have earned in the Pooled Money Investment Account, from proceeds received from the sale of bonds for the purpose of carrying out this chapter.

100842. All money deposited in the 2004 State School Facilities Fund, that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

100844. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds described in this chapter includes the approval of the issuance of any bonds issued to refund any bonds originally issued under this chapter or any previously issued refunding bonds.

100846. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not “proceeds of taxes” as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

CHAPTER 3. HIGHER EDUCATION FACILITIES

Article 1. General

100850. (a) The system of public higher education in this state includes the University of California, the Hastings College of the Law, the California State University, the California Community Colleges, and their respective off-campus centers.

(b) The 2004 Higher Education Capital Outlay Bond Fund is hereby established in the State Treasury for deposit of funds from the proceeds of bonds issued and sold for the purposes of this chapter.

(c) The Higher Education Facilities Finance Committee established pursuant to Section 67353 is hereby authorized to create a debt or debts,
liability or liabilities, of the State of California pursuant to this chapter for the purpose of providing funds to aid the University of California, the Hastings College of the Law, the California State University, and the California Community Colleges.

Article 2.  Program Provisions Applicable to the University of California and the Hastings College of the Law

100852. (a) From the proceeds of bonds issued and sold pursuant to Article 5 (commencing with Section 100900), the sum of six hundred ninety million dollars ($690,000,000) shall be deposited in the 2004 Higher Education Capital Outlay Bond Fund for the purposes of this article. When appropriated, these funds shall be available for expenditure for the purposes of this article.

(b) The purposes of this article include assisting in meeting the capital outlay financing needs of the University of California and the Hastings College of the Law.

(c) Proceeds from the sale of bonds issued and sold for the purposes of this article may be used to fund construction on existing campuses, including the construction of buildings and the acquisition of related fixtures, construction of facilities that may be used by more than one segment of public higher education (intersegmental), the renovation and reconstruction of facilities, site acquisition, the equipping of new, renovated, or reconstructed facilities, which equipment shall have an average useful life of 10 years; and to provide funds for the payment of preconstruction costs, including, but not limited to, preliminary plans and working drawings for facilities of the University of California and the Hastings College of the Law.

Article 3.  Program Provisions Applicable to the California State University

100853. (a) From the proceeds of bonds issued and sold pursuant to Article 5 (commencing with Section 100900), the sum of six hundred ninety million dollars ($690,000,000) shall be deposited in the 2004 Higher Education Capital Outlay Bond Fund for the purposes of this article. When appropriated, these funds shall be available for expenditure for the purposes of this article.

(b) The purposes of this article include assisting in meeting the capital outlay financing needs of the California State University.

(c) Proceeds from the sale of bonds issued and sold for the purposes of this article may be used to fund construction on existing campuses, including the construction of buildings and the acquisition of related fixtures, construction of facilities that may be used by more than one
segment of public higher education (intersegmental), the renovation and reconstruction of facilities, site acquisition, the equipping of new, renovated, or reconstructed facilities, which equipment shall have an average useful life of 10 years; and to provide funds for the payment of preconstruction costs, including, but not limited to, preliminary plans and working drawings for facilities of the California State University.

Article 4. Program Provisions Applicable to the California Community Colleges

100854. (a) From the proceeds of bonds issued and sold pursuant to Article 5 (commencing with Section 100900), the sum of nine hundred twenty million dollars ($920,000,000) shall be deposited in the 2004 Higher Education Capital Outlay Bond Fund for the purposes of this article. When appropriated, these funds shall be available for expenditure for the purposes of this article.

(b) The purposes of this article include assisting in meeting the capital outlay financing needs of the California Community Colleges.

(c) Proceeds from the sale of bonds issued and sold for the purposes of this article may be used to fund construction on existing campuses, including the construction of buildings and the acquisition of related fixtures, construction of facilities that may be used by more than one segment of public higher education (intersegmental), the renovation and reconstruction of facilities, site acquisition, the equipping of new, renovated, or reconstructed facilities, which equipment shall have an average useful life of 10 years; and to provide funds for the payment of preconstruction costs, including, but not limited to, preliminary plans and working drawings for facilities of the California Community Colleges.


100900. (a) Of the total amount of bonds authorized to be issued and sold pursuant to Chapter 1 (commencing with Section 100800), bonds in the total amount of two billion three hundred million dollars ($2,300,000,000), not including the amount of any refunding bonds issued in accordance with Section 100955, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for
the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) It is the intent of the Legislature that the University of California, the California State University, and the California Community Colleges annually consider, as part of their annual capital outlay planning process, the inclusion of facilities that may be used by more than one segment of public higher education (intersegmental), and, that on or before May 15th of each year, those entities report their findings to the budget committees of each house of the Legislature.

(c) Pursuant to this section, the Treasurer shall sell the bonds authorized by the Higher Education Facilities Finance Committee established pursuant to Section 67353 at any different times necessary to service expenditures required by the apportionments.

100910. (a) The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law, except Section 16727 of the Government Code, apply to the bonds and to this chapter and are hereby incorporated into this chapter as though set forth in full within this chapter.

(b) For the purposes of the State General Obligation Bond Law, each state agency administering an appropriation of the 2004 Higher Education Capital Outlay Bond Fund is designated as the “board” for projects funded pursuant to this chapter.

(c) The proceeds of the bonds issued and sold pursuant to this chapter shall be available for the purpose of funding aid to the University of California, the Hastings College of the Law, the California State University, and the California Community Colleges, for the construction on existing or new campuses, and their respective off-campus centers and joint use and intersegmental facilities, as set forth in this chapter.

100920. The Higher Education Facilities Finance Committee established pursuant to Section 67353 shall authorize the issuance of bonds under this chapter only to the extent necessary to fund the apportionments for the purposes described in this chapter that are expressly authorized by the Legislature in the annual Budget Act. Pursuant to that legislative direction, the committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the purposes described in this chapter and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

100925. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the
ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which is necessary to collect that additional sum.

100930. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum necessary to carry out Section 100945, appropriated without regard to fiscal years.

100935. The board, as defined in subdivision (b) of Section 100910, may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account or any other approved form of interim financing, in accordance with Section 16312 of the Government Code, for the purpose of carrying out this chapter. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this chapter. The board, as defined in subdivision (b) of Section 100910, shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

100940. Notwithstanding any other provision of this chapter, or of the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this chapter that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and for the investment earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or take any other action with respect to the investment and use of those bond proceeds required or desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

100945. (a) For the purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount not to exceed the amount of the unsold bonds that have been authorized by the Higher Education Facilities Finance Committee to be sold for the purpose of carrying out this chapter. Any
amounts withdrawn shall be deposited in the 2004 Higher Education Capital Outlay Bond Fund consistent with this chapter. Any money made available under this section shall be returned to the General Fund, plus an amount equal to the interest that the money would have earned in the Pooled Money Investment Account, from proceeds received from the sale of bonds for the purpose of carrying out this chapter.

(b) Any request forwarded to the Legislature and the Department of Finance for funds from this bond issue for expenditure for the purposes described in this chapter by the University of California, the Hastings College of the Law, the California State University, or the California Community Colleges shall be accompanied by the five-year capital outlay plan. Requests forwarded by a university or college shall include a schedule that prioritizes the seismic retrofitting needed to significantly reduce, in the judgment of the particular university or college, seismic hazards in buildings identified as high priority by the university or college. Requests forwarded by the California Community Colleges shall be accompanied by a five-year capital outlay plan reflecting the needs and priorities of the community college system, prioritized on a statewide basis.

100950. All money deposited in the 2004 Higher Education Capital Outlay Bond Fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

100955. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds described in this chapter includes the approval of the issuance of any bonds issued to refund any bonds originally issued under this chapter or any previously issued refunding bonds.

100960. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not “proceeds of taxes” as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

100970. This chapter shall only become operative upon approval of the voters pursuant to subdivision (c) of Section 35 of the act adding this chapter.

SEC. 32. Section 15490 of the Government Code is amended to read:

15490. (a) There is in the state government the State Allocation Board, consisting of the Director of Finance, the Director of General Services, a person appointed by Governor, and the Superintendent of Public Instruction. The board shall also include three Members of the
Senate appointed by the Senate Committee on Rules, two of whom shall belong to the majority party and one of whom shall belong to the minority party, and three Members of the Assembly appointed by the Speaker of the Assembly, two of whom shall belong to the majority party and one of whom shall belong to the minority party.

(b) The members of the board and the Members of the Legislature meeting with the board shall receive no compensation for their services but shall be reimbursed for their actual and necessary expenses incurred in connection with the performance of their duties.

(c) The Director of General Services shall provide assistance to the board as the board requires. The board may, by a majority vote of all members, do one or more of the following:

(1) Appoint an employee to report directly to the board as assistant executive officer.

(2) Fix the salary and other compensation of the assistant executive officer.

(3) Employ additional staff members, and secure office space and furnishings, as necessary to support the assistant executive officer in the performance of his or her duties.

SEC. 33. Section 65995.7 of the Government Code is amended to read:

65995.7. (a) (1) If state funds for new school facility construction are not available, the governing board of a school district that complies with Section 65995.5 may increase the alternative fee, charge, dedication, or other requirement calculated pursuant to subdivision (c) of Section 65995.5 by an amount that may not exceed the amount calculated pursuant to subdivision (c) of Section 65995.5, except that for the purposes of calculating this additional amount, the amount identified in paragraph (2) of subdivision (c) of Section 65995.5 may not be subtracted from the amount determined pursuant to paragraph (1) of subdivision (c) of Section 65995.5. For purposes of this section, state funds are not available if the State Allocation Board is no longer approving apportionments for new construction pursuant to Article 5 (commencing with Section 17072.20) of Chapter 12.5 of Part 10 of the Education Code due to a lack of funds available for new construction. Upon making a determination that state funds are no longer available, the State Allocation Board shall notify the Secretary of the Senate and the Chief Clerk of the Assembly, in writing, of that determination and the date when state funds are no longer available for publication in the respective journal of each house. For the purposes of making this determination, the board shall not consider whether funds are available for, or whether it is making preliminary apportionments or final apportionments pursuant to, Article 11 (commencing with Section 17078.10).
(2) Paragraph (1) shall become inoperative commencing on the effective date of the measure that amended this section to add this paragraph, and shall remain inoperative through the earlier of either of the following:

(A) November 5, 2002, if the voters reject the Kindergarten University Public Education Facilities Bond Act of 2002, after which date paragraph (1) shall again become operative.

(B) The date of the 2004 direct primary election after which date paragraph (1) shall again become operative.

(b) A governing board may offer a reimbursement election to the person subject to the fee, charge, dedication, or other requirement that provides the person with the right to monetary reimbursement of the supplemental amount authorized by this section, to the extent that the district receives funds from state sources for construction of the facilities for which that amount was required, less any amount expended by the district for interim housing. At the option of the person subject to the fee, charge, dedication, or other requirement the reimbursement election may be made on a tract or lot basis. Reimbursement of available funds shall be made within 30 days as they are received by the district.

(c) A governing board may offer the person subject to the fee, charge, dedication, or other requirement an opportunity to negotiate an alternative reimbursement agreement if the terms of the agreement are mutually agreed upon.

(d) A governing board may provide that the rights granted by the reimbursement election or the alternative reimbursement agreement are assignable.

SEC. 33.2. Section 51451.5 is added to the Health and Safety Code, to read:

51451.5. The Homebuyer Down Payment Assistance Program of 2002 is hereby established, to provide assistance in the amount of the applicable school facility fee on affordable housing developments. The Homebuyer Down Payment Assistance Program of 2002 shall, with funds provided by the Housing and Emergency Shelter Trust Fund Act of 2002 (Part 11 (commencing with with Section 53500)), provide the following assistance:

(a) Downpayment assistance to the purchaser of any newly constructed residential structure in a development project in an economically distressed area in the amount of school facility fees paid pursuant to Section 65995.5 or 65995.7 of the Government Code, less the amount that would be required pursuant to subdivision (b) of Section 65995 of the Government Code, notwithstanding Sections 65995.5 and 65995.7 of the Government Code, if all of the following conditions are met:
(1) The development project is located in a county with an unemployment rate that equals or exceeds 125 percent of the state unemployment rate.

(2) Five hundred or more residential structures have been constructed in the county during 2001.

(3) A building permit for an eligible residential structure in the development project is issued by the local agency on or after January 1, 2002.

(4) The eligible residential structure is to be owner occupied for at least five years. If a structure is owner occupied for fewer than five years, the recipient of the assistance shall repay the School Facilities Fee Assistance Fund the amount of the assistance, on a prorated basis.

(5) The sales price of the eligible residential structure does not exceed 175 percent of the median sales price of residential structures in the county during the average of the previous five years.

(b) Downpayment assistance to the purchaser of any newly constructed residential structure in a development project in the aggregate amount of school facility fees paid pursuant to one, all, or any combination of subdivision (b) of Section 65995, Section 65995.5, or Section 65995.7 of the Government Code for the eligible residential structure if all of the following conditions are met:

(1) The assistance is provided to a qualified first-time home buyer pursuant to Section 50068.5.

(2) The qualified first-time home buyer does not exceed the lower or moderate-income requirements in Section 50093.

(3) A building permit for an eligible residential structure in the development project is issued by the local agency on or after January 1, 2002.

(4) The eligible residential structure is to be owner occupied for at least five years. If a structure is owner occupied for fewer than five years, the recipient of the assistance shall repay the School Facilities Fee Assistance Fund the amount of the assistance, on a prorated basis.

SEC. 33.4. Section 51453 is added to the Health and Safety Code, to read:

51453. Notwithstanding Section 51452, the sum of fifty million dollars ($50,000,000) transferred to the School Facilities Fee Assistance Fund pursuant to subparagraph (A) of paragraph (7) of subdivision (a) of Section 53533 is continuously appropriated to the department for allocation for the agency for administrative costs and to make payments to purchasers of newly constructed residential structures pursuant to Section 51451.5 from that fund for a period of four years, as follows:

(a) Twenty-five million dollars ($25,000,000) shall be available for the program set forth in subdivision (a) of Section 51451.5, except that if less than 50 percent of these funds are expended within 24 months, all
or part of those funds shall be available for the program set forth in subdivision (b) of Section 51451.5 at the discretion of the executive director of the agency.

(b) Twenty-five million dollars ($25,000,000) shall be available for the program set forth in subdivision (b) of Section 51451.5, except that if less than 50 percent of these funds are expended within 24 months, all or part of those funds shall be available for the program set forth in subdivision (a) of Section 51451.5 at the discretion of the executive director of the agency.

(c) If after 48 months, more than 20 percent of the funds identified in subdivisions (a) and (b) are not expended, the executive director of the agency may make all or part of those funds available to the California Homebuyer’s Downpayment Assistance Program, as authorized under Chapter 11 (commencing with Section 51500).

(d) All repayments of disbursed funds pursuant to this chapter or any interest earned from the investment in the Surplus Money Investment Fund or any other moneys accruing to the fund from whatever source shall be returned to the fund and is available for allocation by the agency to the program established pursuant to Section 51451.5.

SEC. 33.6. Section 51455 of the Health and Safety Code is amended to read:

51455. (a) Except as provided in subdivision (b), Sections 51450, 51451, 51452, and 51454 shall not be operative on and after January 1, 2002.

(b) Except as provided in Section 51453, the School Facilities Fee Assistance Fund established by Section 51452 and the programmatic authority necessary to operate the programs authorized by Section 51451 shall continue on and after January 1, 2002, only with respect to any repayment obligation pertaining to that assistance or to any regulatory agreement imposed as a condition of that assistance.

SEC. 34. (a) There is hereby appropriated the sum of six hundred fifty-one million two hundred eighty-nine thousand dollars ($651,289,000) from the Public Buildings Construction Fund, as established in Section 15845 of the Government Code, in accordance with the following schedule:

(1) Ten million four hundred eighty-seven thousand dollars ($10,487,000) to the California State Library for project 10.04.004-Joint Library: J. Paul Leonard Library and Sutro Library - Preliminary plans, working drawings, construction, and equipment.

(2) The sum of two hundred seventy-nine million two hundred fifty thousand dollars ($279,025,000) to the University of California for the following projects:
(A) Sixty-six million one hundred twenty-six thousand dollars ($66,126,000) for Davis Campus: project 99.03.205-Veterinary Medicine 3A - Construction.

(B) Fifty-five million three hundred nineteen thousand dollars ($55,319,000) for Irvine Campus: project 99.09.325-Natural Sciences Unit 2 - Construction and equipment.

(C) Sixteen million four hundred forty-nine thousand dollars ($16,449,000) for Merced Campus: project 99.11.010-Site Development and Infrastructure, Phase 2 - Working drawings and construction.

(D) Thirty-five million six hundred seventy-five thousand dollars ($35,675,000) for Riverside Campus: project 99.05.160-Engineering Building Unit 2 - Construction.

(E) Thirty-seven million three hundred sixty-nine thousand dollars ($37,369,000) for San Diego Campus: project 99.06.315-Engineering Building Unit 3B - Construction and equipment.

(F) Twenty-six million nine hundred four thousand dollars ($26,904,000) for Santa Barbara Campus: project 99.08.110-Life Sciences Building - Construction and equipment.

(G) Forty-one million one hundred eighty-three thousand dollars ($41,183,000) for Santa Cruz Campus: project 99.07.125-Engineering Building - Construction and equipment.

(3) The sum of one hundred ninety-one million three hundred nine thousand dollars ($191,309,000) to the California State University for the following projects:

(A) Eighty-five million thirty-five thousand dollars ($85,035,000) for San Francisco Campus: project 06.84.104-Joint Library: J. Paul Leonard Library and Sutro Library - Preliminary plans, working drawings, construction, and equipment.

(B) Thirty-eight million one hundred eight thousand dollars ($38,108,000) for Los Angeles Campus: project 06.73.094-Physical Science Replacement Building - Preliminary plans, working drawings, construction, and equipment.

(C) Twenty-four million two hundred fifteen thousand dollars ($24,215,000) for San Marcos Campus: project 06.68.121-Academic Hall II, Building 13 - Preliminary plans, working drawings, and construction, and equipment.

(D) Forty-three million nine hundred fifty-one thousand dollars ($43,951,000) for Monterey Bay Campus: project 06.74.006-Library - Construction.

(4) The sum of one hundred seventy million four hundred sixty-eight thousand dollars ($170,468,000) to the Board of Governors of the California Community Colleges for the following projects:
(A) Eight million nine hundred seventy-five thousand dollars ($8,975,000) for Rancho Santiago Community College District, Santiago Canyon College project 40.48.118-Learning Resource Center - Construction and equipment.

(B) Seventeen million three hundred forty-three thousand dollars ($17,343,000) for State Center Community College District, Madera County Educational Center project 40.64.302-Academic Facilities, Phase 1B - Construction and equipment.

(C) Thirteen million nine hundred ten thousand dollars ($13,910,000) for Sequoias Community College District, College of the Sequoias project 40.56.110-Multimedia Learning Resource Center - Construction and equipment.

(D) Seventeen million five hundred twenty thousand dollars ($17,520,000) for Victor Valley Community College District, Victor Valley Community College project 40.66.115-Advanced Technology Complex - Construction and equipment.

(E) Twelve million five hundred fifty-five thousand dollars ($12,555,000) for San Luis Obispo County Community College District, Cuesta College project 40.51.111-Library Addition Reconstruction - Construction and equipment.

(F) Ten million five hundred forty-eight thousand dollars ($10,548,000) for Mount San Jacinto Community College District, Menifee Valley Center project 40.34.211-Learning Resource Center - Construction and equipment.

(G) Thirty-five million seven hundred seventy thousand dollars ($35,770,000) for Los Rios Community College District, Folsom Lake Center project 40.27.502-Instructional Facilities, Phase 1B - Construction and equipment.

(H) Eight million four hundred thirty-eight thousand dollars ($8,438,000) for Citrus Community College District, Citrus College project 40.09.120-Math/Science Building Replacement - Construction and equipment.

(I) Twenty-nine million three hundred fifty-eight thousand dollars ($29,358,000) for Palomar Community College District, Palomar College project 40.38.113-High Technology Laboratory-Classroom Building - Construction and equipment.

(J) Seven million twenty-three thousand dollars ($7,023,000) for Mendocino-Lake Community College District, Mendocino College project 40.29.117-Science Building - Construction and equipment.

(K) Nine million twenty-eight thousand dollars ($9,028,000) for Merced Community College District, Merced College project 40.30.114-Interdisciplinary Academic Center - Construction and equipment.
(b) The State Public Works Board may issue lease-revenue bonds, notes, or bond anticipation notes pursuant to Chapter 5 (commencing with Section 15830) of Part 10b of Division 3 of Title 2 of the Government Code to finance the design or construction, or both, of the projects authorized by subdivision (a).

(c) The State Public Works Board and the participating agency or department may obtain interim financing for the project costs authorized in subdivision (a) from any appropriate source, including, but not limited to, the Pooled Money Investment Account pursuant to Sections 16312 and 16313 of the Government Code.

(d) Each participating agency or department having a project authorized in subdivision (a) is authorized and directed to execute and deliver any and all leases, contracts, agreements, or other documents necessary or advisable to consummate the sale of bonds or otherwise effectuate the financing of the projects scheduled in subdivision (a).

(e) The State Public Works Board may authorize the augmentation of the cost of construction of the projects scheduled in subdivision (a) pursuant to that board’s authority under Section 13332.11 of the Government Code. In addition, the board may authorize any additional amount necessary to establish a reasonable construction reserve and to pay the cost of financing including the payment of interest during the design and construction of the projects, the costs of financing a debt service fund, and the cost of issuance of permanent financing for the projects. This additional amount may include interest payable on any interim financing obtained.

(f) In the event that the bonds authorized for projects in subdivision (a) are not sold, the participating agency or department that has initiated loans shall commit a sufficient portion of its current support appropriation, as determined by the Department of Finance, to repay any interim financing. It is the intent of the Legislature that this commitment be made until all interim financing is repaid either through the proceeds of the sale of bonds or from an appropriation.

(g) Notwithstanding any other provision of law, the funds appropriated in subdivision (a) shall be available for encumbrance until June 30, 2008.

(h) The project identified under subparagraph (B) of paragraph (2) of subdivision (a) for the University of California-Irvine Natural Sciences Unit 2 may utilize design-build construction consistent with the University of California’s practices, policies, and procedures.

(i) The State Public Works Board shall not itself be deemed a lead or responsible agency for purposes of the California Environmental Quality Act as set forth in Division 13 (commencing with Section 21000) of the Public Resources Code for any activities under the State Building Construction Act of 1955 as set forth in Part 10b (commencin
with Section 15800) of Division 3 of Title 2 of the Government Code). This subdivision does not exempt any participating agency or department from the requirements of the California Environmental Quality Act. This subdivision is declarative of existing law.

SEC. 35. (a) Section 30 of this act shall become effective only upon approval by the voters, at the November 5, 2002, statewide general election, of the Kindergarten-University Public Education Facilities Bond Act of 2002, as set forth in Section 30 of this act.

(b) Section 31 of this act shall become effective only upon approval by the voters, at the 2004 direct primary election, of the Kindergarten-University Public Education Facilities Bond Act of 2004, as set forth in Section 31 of this act.

(c) If the voters do not approve the Kindergarten-University Public Education Facilities Bond Act of 2004 at the 2004 direct primary election, the Kindergarten-University Public Education Facilities Bond Act of 2004, as set forth in Section 31.5 of this act shall be submitted to the voters for approval at the November 2, 2004, statewide general election, as set forth in Section 31.5 of this act.

SEC. 36. (a) Notwithstanding any other provision of law, with respect to the Kindergarten-University Public Education Facilities Bond Act of 2002 as set forth in Section 30 of this act, all ballots of the November 5, 2002, statewide general election, shall have printed thereon and in a square thereof, exclusively the words: “Kindergarten-University Public Education Facilities Bond Act of 2002” and in the same square under those words, the following in 8-point type: “This thirteen billion fifty million dollar ($13,050,000,000) bond issue will provide funding for necessary education facilities to relieve overcrowding and to repair older schools. Funds will be targeted to areas of the greatest need and must be spent according to strict accountability measures. Funds will also be used to upgrade and build new classrooms in the California Community Colleges, the California State University, and the University of California, to provide adequate higher education facilities to accommodate the growing student enrollment. These bonds may be used only for eligible projects.” Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act.

(b) Notwithstanding any other provision of law, with respect to the Kindergarten-University Public Education Facilities Bond Act of 2004 as set forth in Section 31 of this act, all ballots of the 2004 direct primary election shall have printed thereon and in a square thereof, exclusively the words: “Kindergarten-University Public Education Facilities Bond Act of 2004,” and in the same square under those words, the following in 8-point type: “This twelve billion three hundred million dollar
($12,300,000,000) bond issue will provide funding for necessary education facilities to relieve overcrowding and to repair older schools. Funds will be targeted to areas of the greatest need and must be spend according to strict accountability measures. Funds will also be used to upgrade and build new classrooms in the California Community Colleges, the California State University, and the University of California, to provide adequate higher education facilities to accommodate the growing student enrollment. These bonds may be used only for eligible projects.” Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act.

(c) If the Kindergarten-University Public Education Facilities Bond Act of 2004 is submitted to the voters pursuant to subdivision (c) of Section 35 of this act, notwithstanding any other provision of law, with respect to the Kindergarten-University Public Education Facilities Bond Act of 2004 as set forth in Section 31.5 of this act, all ballots of the 2004 statewide general election shall have printed thereon and in a square thereof, exclusively the words: “Kindergarten-University Public Education Facilities Bond Act of 2004,” and in the same square under those words, the following in 8-point type: “This twelve billion three hundred million dollar ($12,300,000,000) bond issue will provide funding for necessary education facilities to relieve overcrowding and to repair older schools. Funds will be targeted to areas of the greatest need and must be spend according to strict accountability measures. Funds will also be used to upgrade and build new classrooms in the California Community Colleges, the California State University, and the University of California, to provide adequate higher education facilities to accommodate the growing student enrollment. These bonds may be used only for eligible projects.” Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act.

(d) Notwithstanding Sections 13247 and 13281 of the Elections Code, the language in subdivision (a), (b), or (c), as appropriate, shall be the only language included in the ballot label for the condensed statement of the ballot title, and the Attorney General shall not supplement, subtract from, or revise that language, except that the Attorney General may include the financial impact summary prepared pursuant to Section 9087 of the Elections Code and Section 88003 of the Government Code. The ballot label is the condensed statement of the ballot title and the financial impact summary.

(e) Where the voting in the election is done by means of voting machines used pursuant to law in a manner that carries out the intent of this section, the use of the voting machines and the expression of the voters’ choice by means thereof are in compliance with this section.
SEC. 37. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide adequate school facilities to house the growing pupil population attending the California schools, to renovate existing facilities, to provide for the wiring and cabling of schools for education technology, to provide for joint-use facilities, and to provide adequate higher education facilities to accommodate the growing number of students, it is necessary that this act take effect immediately.

CHAPTER 34

An act to amend Sections 17024.5, 17039, 17052.12, 17062, 17063, 17085, 17140, 17140.3, 17144, 17275.5, 17501, 17551, 17560, 17570, 17731.5, 17751, 18038.5, 19136, 19141, 19365, 19521, 23038.5, 23456, 23457, 23609, 23701s, 23705, 23711, 23712, 23801, 23802, 23811, 24306, 24307, 24343.7, 24357, 24357.9, 24443, 24667, 24710, and 24942 of, to add Sections 17062.3, 17132, 17132.6, 17144.5, 17205, 17552.3, 17563.5, 19136.8, 23456.5, 24661.3, and 24685.5 to, to repeal Sections 17251.5, 17270.5, 17271, and 17279.5 of, to repeal and amend Section 24949.1 of, and to repeal and add Section 24424 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor May 8, 2002. Filed with Secretary of State May 8, 2002.]

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

SECTION 1. Section 17024.5 of the Revenue and Taxation Code is amended to read:

17024.5. (a) (1) Unless otherwise specifically provided, the terms “Internal Revenue Code,” “Internal Revenue Code of 1954,” or “Internal Revenue Code of 1986,” for purposes of this part, mean Title 26 of the United States Code, including all amendments thereto as enacted on the specified date for the applicable taxable year as follows:

<table>
<thead>
<tr>
<th>Taxable Year</th>
<th>Specified Date of Internal Revenue Code Sections</th>
</tr>
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<tbody>
<tr>
<td>(A) For taxable years beginning</td>
<td></td>
</tr>
<tr>
<td>on or after January 1, 1983</td>
<td>January 15, 1983</td>
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<tr>
<td>and on or before December 31, 1983</td>
<td>. . . . . . .</td>
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</tbody>
</table>
(B) For taxable years beginning on or after January 1, 1984, and on or before December 31, 1984 . . . . . January 1, 1984
(C) For taxable years beginning on or after January 1, 1985, and on or before December 31, 1985 . . . . . January 1, 1985
(D) For taxable years beginning on or after January 1, 1986, and on or before December 31, 1986 . . . . . January 1, 1986
(E) For taxable years beginning on or after January 1, 1987, and on or before December 31, 1988 . . . . . January 1, 1987
(F) For taxable years beginning on or after January 1, 1989, and on or before December 31, 1989 . . . . . January 1, 1989
(G) For taxable years beginning on or after January 1, 1990, and on or before December 31, 1990 . . . . . January 1, 1990
(H) For taxable years beginning on or after January 1, 1991, and on or before December 31, 1991 . . . . . January 1, 1991
(I) For taxable years beginning on or after January 1, 1992, and on or before December 31, 1992 . . . . . January 1, 1992
(J) For taxable years beginning on or after January 1, 1993, and on or before December 31, 1996 . . . . . January 1, 1993
(K) For taxable years beginning on or after January 1, 1997, and on or before December 31, 1997 . . . . . January 1, 1997
(L) For taxable years beginning on or after January 1, 1998, and on or before December 31, 2001 . . . . . January 1, 1998
(M) For taxable years beginning on or after January 1, 2002 . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . January 1, 2001

(2) Unless otherwise specifically provided, for federal laws enacted on or after January 1, 1987, and on or before the specified date for the taxable year, uncodified provisions that relate to provisions of the Internal Revenue Code that are incorporated for purposes of this part shall be applicable to the same taxable years as the incorporated provisions.

(3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle H (Repeal of Expired or Obsolete Provisions) of the Revenue Reconciliation Act of 1990 (Public Law 101-508) modified numerous provisions of the Internal Revenue Code and provisions of prior federal acts, some of which are incorporated by reference into this part. Unless otherwise provided, the provisions described in the preceding sentence, to the extent that they modify provisions that are incorporated into this part, are declaratory of existing law and shall be applied in the same manner and for the same periods as specified in the Revenue Reconciliation Act of 1990.

(b) Unless otherwise specifically provided, when applying any provision of the Internal Revenue Code for purposes of this part, a
reference to any of the following shall not be applicable for purposes of this part:

(1) Except as provided in Chapter 4.5 (commencing with Section 23800) of Part 11 of Division 2, an electing small business corporation, as defined in Section 1361(b) of the Internal Revenue Code.

(2) Domestic international sales corporations (DISC), as defined in Section 992(a) of the Internal Revenue Code.

(3) A personal holding company, as defined in Section 542 of the Internal Revenue Code.

(4) A foreign personal holding company, as defined in Section 552 of the Internal Revenue Code.

(5) A foreign investment company, as defined in Section 1246(b) of the Internal Revenue Code.

(6) A foreign trust, as defined in Section 679 of the Internal Revenue Code.

(7) Foreign income taxes and foreign income tax credits.

(8) Section 911 of the Internal Revenue Code, relating to United States citizens living abroad.

(9) A foreign corporation, except that Section 367 of the Internal Revenue Code shall be applicable.

(10) Federal tax credits and carryovers of federal tax credits.

(11) Nonresident aliens.

(12) Deduction for personal exemptions, as provided in Section 151 of the Internal Revenue Code.

(13) The tax on generation-skipping transfers imposed by Section 2601 of the Internal Revenue Code.

(14) The tax, relating to estates, imposed by Section 2001 or 2101 of the Internal Revenue Code.

(c) (1) The provisions contained in Sections 41 to 44, inclusive, and 172 of the Tax Reform Act of 1984 (Public Law 98-369), relating to treatment of debt instruments, shall not be applicable for taxable years beginning before January 1, 1987.

(2) The provisions contained in Public Law 99-121, relating to the treatment of debt instruments, shall not be applicable for taxable years beginning before January 1, 1987.

(3) For each taxable year beginning on or after January 1, 1987, the provisions referred to by paragraphs (1) and (2) shall be applicable for purposes of this part in the same manner and with respect to the same obligations as the federal provisions, except as otherwise provided in this part.

(d) When applying the Internal Revenue Code for purposes of this part, regulations promulgated in final form or issued as temporary regulations by “the secretary” shall be applicable as regulations under
this part to the extent that they do not conflict with this part or with regulations issued by the Franchise Tax Board.

(e) Whenever this part allows a taxpayer to make an election, the following rules shall apply:

(1) A proper election filed with the Internal Revenue Service in accordance with the Internal Revenue Code or regulations issued by “the secretary” shall be deemed to be a proper election for purposes of this part, unless otherwise provided in this part or in regulations issued by the Franchise Tax Board.

(2) A copy of that election shall be furnished to the Franchise Tax Board upon request.

(3) To obtain treatment other than that elected for federal purposes, a separate election shall be filed at the time and in the manner required by the Franchise Tax Board.

(f) Whenever this part allows or requires a taxpayer to file an application or seek consent, the rules set forth in subdivision (e) shall be applicable with respect to that application or consent.

(g) When applying the Internal Revenue Code for purposes of determining the statute of limitations under this part, any reference to a period of three years shall be modified to read four years for purposes of this part.

(h) When applying, for purposes of this part, any section of the Internal Revenue Code or any applicable regulation thereunder, all of the following shall apply:

(1) References to “adjusted gross income” shall mean the amount computed in accordance with Section 17072, except as provided in paragraph (2).

(2) References to “adjusted gross income” for purposes of computing limitations based upon adjusted gross income, shall mean the amount required to be shown as adjusted gross income on the federal tax return for the same taxable year.

(3) Any reference to “subtitle” or “chapter” shall mean this part.

(4) The provisions of Section 7806 of the Internal Revenue Code, relating to construction of title, shall apply.

(5) Any provision of the Internal Revenue Code that becomes operative on or after the specified date for that taxable year shall become operative on the same date for purposes of this part.

(6) Any provision of the Internal Revenue Code that becomes inoperative on or after the specified date for that taxable year shall become inoperative on the same date for purposes of this part.

(7) Due account shall be made for differences in federal and state terminology, effective dates, substitution of “Franchise Tax Board” for “secretary” when appropriate, and other obvious differences.
(i) Any reference to a specific provision of the Internal Revenue Code shall include modifications of that provision, if any, in this part.

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

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

1. Credits that do not contain carryover or refundable provisions, except those described in paragraphs (4) and (5).
2. Credits that contain carryover provisions but do not contain refundable provisions, except for those that are allowed to reduce “net tax” below the tentative minimum tax, as defined by Section 17062.
3. Credits that contain both carryover and refundable provisions.
4. The minimum tax credit allowed by Section 17063 (relating to the alternative minimum tax).
5. Credits that are allowed to reduce “net tax” below the tentative minimum tax, as defined by Section 17062.
6. Credits for taxes paid to other states allowed by Chapter 12 (commencing with Section 18001).
7. Credits that contain refundable provisions but do not contain carryover provisions.

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

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

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

(A) The credit allowed by Section 17052.2 (relating to teacher retention tax credit).
(B) The credit allowed by former Section 17052.4 (relating to solar energy).
(C) The credit allowed by former Section 17052.5 (relating to solar energy, repealed on January 1, 1987).

(D) The credit allowed by former Section 17052.5 (relating to solar energy, repealed on December 1, 1994).

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

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

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

(H) The credit allowed by Section 17052.25 (relating to the adoption costs credit).

(I) The credit allowed by Section 17053.5 (relating to the renter’s credit).

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

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

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

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

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

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

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

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

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

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

(T) The credit allowed by Section 17054.5 (relating to the credits for a qualified joint custody head of household and a qualified taxpayer with a dependent parent).

(U) The credit allowed by Section 17054.7 (relating to the credit for a senior head of household).

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

(W) The credit allowed by Section 17058 (relating to low-income housing).
(X) The credit allowed by Section 17061 (relating to refunds pursuant to the Unemployment Insurance Code).
(Y) Credits for taxes paid to other states allowed by Chapter 12 (commencing with Section 18001).
(Z) The credit allowed by Section 19002 (relating to tax withholding).

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

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

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

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

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

(f) Unless otherwise provided, in the case of a partnership, any credit allowed by this part shall be computed at the partnership level, and any limitation on the expenses qualifying for the credit or limitation upon the amount of the credit shall be applied to the partnership and to each partner.

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

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

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

(h) (1) Unless otherwise specifically provided, in the case of a taxpayer that is a partner or shareholder of an eligible passthrough entity described in paragraph (2), any credit passed through to the taxpayer in the taxpayer’s first taxable year beginning on or after the date the credit is no longer operative may be claimed by the taxpayer in that taxable year, notwithstanding the repeal of the statute authorizing the credit prior to the close of that taxable year.

(2) For purposes of this subdivision, “eligible passthrough entity” means any partnership or S corporation that files its return on a fiscal year basis pursuant to Section 18566, and that is entitled to a credit pursuant to this part for the taxable year that begins during the last year the credit is operative.

(3) This subdivision shall apply to credits that become inoperative on or after the operative date of the act adding this subdivision.

SEC. 3. Section 17052.12 of the Revenue and Taxation Code is amended to read:

17052.12. For each taxable year beginning on or after January 1, 1987, there shall be allowed as a credit against the “net tax” (as defined by Section 17039) for the taxable year an amount determined in accordance with Section 41 of the Internal Revenue Code, except as follows:

(a) For each taxable year beginning before January 1, 1997, the reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “8 percent.”

(b) (1) For each taxable year beginning on or after January 1, 1997, and before January 1, 1999, the reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “11 percent.”

(2) For each taxable year beginning on or after January 1, 1999, and before January 1, 2000, the reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “12 percent.”

(3) For each taxable year beginning on or after January 1, 2000, the reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “15 percent.”
(c) Section 41(a)(2) of the Internal Revenue Code, relating to basic research payments, shall not apply.

(d) “Qualified research” shall include only research conducted in California.

(e) In the case where the credit allowed under this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” in the following year, and succeeding years if necessary, until the credit has been exhausted.

(f) (1) With respect to any expense paid or incurred after the operative date of Section 6378, Section 41(b)(1) of the Internal Revenue Code is modified to exclude from the definition of “qualified research expense” any amount paid or incurred for tangible personal property that is eligible for the exemption from sales or use tax provided by Section 6378.

(2) For each taxable year beginning on or after January 1, 1998, the reference to “Section 501(a)” in Section 41(b)(3)(C) of the Internal Revenue Code, relating to contract research expenses, is modified to read “this part or Part 11 (commencing with Section 23001).”

(g) (1) For each taxable year beginning on or after January 1, 2000:

(A) The reference to “2.65 percent” in Section 41(c)(4)(A)(i) of the Internal Revenue Code is modified to read “one and forty-nine hundredths of one percent.”

(B) The reference to “3.2 percent” in Section 41(c)(4)(A)(ii) of the Internal Revenue Code is modified to read “one and ninety-eight hundredths of one percent.”

(C) The reference to “3.75 percent” in Section 41(c)(4)(A)(iii) of the Internal Revenue Code is modified to read “two and forty-eight hundredths of one percent.”

(2) Section 41(c)(4)(B) shall not apply and in lieu thereof an election under Section 41(c)(4)(A) of the Internal Revenue Code may be made for any taxable year of the taxpayer beginning on or after January 1, 1998. That election shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Franchise Tax Board.

(3) Section 41(c)(6) of the Internal Revenue Code, relating to gross receipts, is modified to take into account only those gross receipts from the sale of property held primarily for sale to customers in the ordinary course of the taxpayer’s trade or business that is delivered or shipped to a purchaser within this state, regardless of f.o.b. point or any other condition of the sale.

(h) Section 41(h) of the Internal Revenue Code, relating to termination, shall not apply.

(i) Section 41(g) of the Internal Revenue Code, relating to special rule for passthrough of credit, is modified by each of the following:
(1) The last sentence shall not apply.

(2) If the amount determined under Section 41(a) of the Internal Revenue Code for any taxable year exceeds the limitation of Section 41(g) of the Internal Revenue Code, that amount may be carried over to other taxable years under the rules of subdivision (e); except that the limitation of Section 41(g) of the Internal Revenue Code shall be taken into account in each subsequent taxable year.

SEC. 4. Section 17062 of the Revenue and Taxation Code is amended to read:

17062. (a) In addition to the other taxes imposed by this part, there is hereby imposed for each taxable year, a tax equal to the excess, if any, of—

(1) The tentative minimum tax for the taxable year, over
(2) The regular tax for the taxable year.

(b) For purposes of this chapter, each of the following shall apply:

(1) The tentative minimum tax shall be computed in accordance with Sections 55 to 59, inclusive, of the Internal Revenue Code, except as otherwise provided in this part.

(2) The regular tax shall be the amount of tax imposed by Section 17041 or 17048, before reduction for any credits against the tax, less any amount imposed under paragraph (1) of subdivision (d) and paragraph (1) of subdivision (e) of Section 17560.

(3) (A) The provisions of Section 55(b)(1) of the Internal Revenue Code shall be modified to provide that the tentative minimum tax for the taxable year shall be equal to the following percent of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, before reduction for any credits against the tax:

(i) For any taxable year beginning on or after January 1, 1991, and before January 1, 1996, 8.5 percent.

(ii) For any taxable year beginning on or after January 1, 1996, 7 percent.

(B) In the case of a nonresident or part-year resident, the tentative minimum tax shall be computed by multiplying the alternative minimum taxable income of the nonresident or part-year resident, as defined in subparagraph (C), by a rate (expressed as a percentage) equal to the tax computed under subdivision (b) on the alternative minimum taxable income of the nonresident or part-year resident as if the nonresident or part-year resident were a resident of this state for the taxable year and as if the nonresident or part-year resident were a resident of this state for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions, divided by the amount of that income.
(C) For purposes of this section, the term "alternative minimum taxable income of a nonresident or part-year resident" includes each of the following:

(i) For any period during which the taxpayer was a resident of this state (as defined by Section 17014), all items of alternative minimum taxable income (as modified for purposes of this chapter), regardless of source.

(ii) For any period during which the taxpayer was not a resident of this state, alternative minimum taxable income (as modified for purposes of this chapter) which were derived from sources within this state, determined in accordance with Article 9 of Chapter 3 (commencing with Section 17301) and Chapter 11 (commencing with Section 17951).

(iii) For purposes of computing "alternative minimum taxable income of a nonresident or part-year resident," any carryover items, deferred income, suspended losses, or suspended deductions shall only be allowable to the extent that the carryover item, suspended loss, or suspended deduction was derived from sources within this state.

(4) The provisions of Section 55(b)(2) of the Internal Revenue Code, relating to alternative minimum taxable income, shall be modified to provide that alternative minimum taxable income shall not include the income, adjustments, and items of tax preference attributable to any trade or business of a qualified taxpayer.

(A) For purposes of this paragraph, "qualified taxpayer" means a taxpayer who meets both of the following:

(i) Is the owner of, or has an ownership interest in, a trade or business.

(ii) Has aggregate gross receipts, less returns and allowances, of less than one million dollars ($1,000,000) during the taxable year from all trades or businesses of which the taxpayer is the owner or has an ownership interest, in the amount of that taxpayer’s proportionate interest in each trade or business.

(B) For purposes of this paragraph, "aggregate gross receipts, less returns and allowances" means the sum of the gross receipts of the trades or businesses that the taxpayer owns and the proportionate interest of the gross receipts of the trades or businesses that the taxpayer owns and of passthrough entities in which the taxpayer holds an interest.

(C) For purposes of this paragraph, "gross receipts, less returns and allowances" means the sum of the gross receipts from the production of business income, as defined in subdivision (a) of Section 25120, and the gross receipts from the production of nonbusiness income, as defined in subdivision (d) of Section 25120.

(D) For purposes of this paragraph, "proportionate interest" means:

(i) In the case of a passthrough entity that reports a profit for the taxable year, the taxpayer’s profit interest in the entity at the end of the taxpayer’s taxable year.
(ii) In the case of a passthrough entity that reports a loss for the taxable year, the taxpayer’s loss interest in the entity at the end of the taxpayer’s taxable year.

(iii) In the case of a passthrough entity that is sold or liquidates during the taxable year, the taxpayer’s capital account interest in the entity at the time of the sale or liquidation.

(E) (i) For purposes of this paragraph, “proportionate interest” includes an interest in a passthrough entity.

(ii) For purposes of this paragraph, “passthrough entity” means any of the following:

(I) A partnership, as defined by Section 17008.

(II) An S corporation, as provided in Chapter 4.5 (commencing with Section 23800) of Part 11.

(III) A regulated investment company, as provided in Section 24871.

(IV) A real estate investment trust, as provided in Section 24871.

(V) A real estate mortgage investment conduit, as provided in Section 24874.

(5) For taxable years beginning on or after January 1, 1998, Section 55(d)(1) of the Internal Revenue Code, relating to exemption amount for taxpayers other than corporations is modified, for purposes of this part, to provide the following exemption amounts in lieu of those contained therein:

(A) Fifty-seven thousand two hundred sixty dollars ($57,260) in the case of either of the following:

(i) A joint return.

(ii) A surviving spouse.

(B) Forty-two thousand nine hundred forty-five dollars ($42,945) in the case of an individual who is both of the following:

(i) Not a married individual.

(ii) Not a surviving spouse.

(C) Twenty-eight thousand six hundred thirty dollars ($28,630) in the case of either of the following:

(i) A married individual who files a separate return.

(ii) An estate or trust.

(6) For taxable years beginning on or after January 1, 1998, Section 55(d)(3) of the Internal Revenue Code, relating to the phaseout of exemption amount for taxpayers other than corporations is modified, for purposes of this part, to provide the following phaseout of exemption amounts in lieu of those contained therein:

(A) Two hundred fourteen thousand seven hundred twenty-five dollars ($214,725) in the case of a taxpayer described in subparagraph (A) of paragraph (5).

(B) One hundred sixty-one thousand forty-four dollars ($161,044) in the case of a taxpayer described in subparagraph (B) of paragraph (5).
(C) One hundred seven thousand three hundred sixty-two dollars ($107,362) in the case of a taxpayer described in subparagraph (C) of paragraph (5).

(7) For each taxable year beginning on or after January 1, 1999, the Franchise Tax Board shall recompute the exemption amounts prescribed in paragraph (5) and the phaseout of exemption amounts prescribed in paragraph (6). Those computations shall be made as follows:

(A) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(B) The Franchise Tax Board shall do both of the following:

(i) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to subparagraph (A) and dividing the result by 100.

(ii) Multiply the preceding taxable year exemption amounts and the phaseout of exemption amounts by the inflation adjustment factor determined in clause (i) and round off the resulting products to the nearest one dollar ($1).

(c) (1) (A) Section 56(a)(6) of the Internal Revenue Code as in effect on January 1, 1997, relating to installment sales of certain property, shall not apply to payments received in taxable years beginning on or after January 1, 1997, with respect to dispositions occurring in taxable years beginning after December 31, 1987.

(B) This paragraph shall not apply to taxable years beginning on or after January 1, 1998.

(2) Section 56(b)(1)(E) of the Internal Revenue Code, relating to standard deduction and deduction for personal exemptions not allowed, is modified, for purposes of this part, to deny the standard deduction allowed by Section 17073.5.

(3) Section 56(b)(3) of the Internal Revenue Code, relating to treatment of incentive stock options, shall be modified to additionally provide the following:

(A) Section 421 of the Internal Revenue Code shall not apply to the transfer of stock acquired pursuant to the exercise of a California qualified stock option under Section 17502.

(B) Section 422(c)(2) of the Internal Revenue Code shall apply in any case where the disposition and inclusion of a California qualified stock option for purposes of this chapter are within the same taxable year and that section shall not apply in any other case.

(C) The adjusted basis of any stock acquired by the exercise of a California qualified stock option shall be determined on the basis of the treatment prescribed by this paragraph.
(d) The provisions of Section 57(a)(5) of the Internal Revenue Code, relating to tax-exempt interest shall not apply.

(e) Section 57(a) of the Internal Revenue Code, relating to items of tax preference, is modified to include as an item of tax preference an amount equal to one-half of the amount excluded from gross income for the taxable year under Section 18152.5.

(f) The provisions of Section 59(a) of the Internal Revenue Code, relating to the alternative minimum tax foreign tax credit, shall not apply.

SEC. 5. Section 17062.3 is added to Revenue and Taxation Code, to read:

17062.3. The amendments made to Section 56 of the Internal Revenue Code, relating to adjustments in computing alternative minimum taxable income by Section 4(1) of Public Law 106-519, relating to the exclusion under Section 114 of the Internal Revenue Code, shall not apply.

SEC. 6. Section 17063 of the Revenue and Taxation Code is amended to read:

17063. (a) There shall be allowed as a credit against the net tax (as defined by Section 17039) for any taxable year an amount equal to the minimum tax credit for that taxable year.

(b) For purposes of subdivision (a), the minimum tax credit shall be determined in accordance with Section 53 of the Internal Revenue Code, except as otherwise provided in this part.

(c) For purposes of this chapter, the amount determined under Section 53(c)(1) of the Internal Revenue Code shall be the regular tax as defined by paragraph (2) of subdivision (b) of Section 17062, reduced by the sum of the credits allowable under this part, other than:

(1) The credits described in paragraph (7) of subdivision (a) of Section 17039.

(2) Any credit that reduces the tax below the tentative minimum tax, as defined by Section 17062.

(d) Section 53(d)(1)(B)(ii)(II) of the Internal Revenue Code, relating to credit not allowed for exclusion preferences, is modified to include subdivision (e) of Section 17062, as a specified item.

SEC. 7. Section 17085 of the Revenue and Taxation Code is amended to read:

17085. Section 72 of the Internal Revenue Code, as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16), relating to annuities and certain proceeds of life insurance contracts, is modified as follows:

(a) The amendments and transitional rules made by Public Law 99-514 shall be applicable to this part for the same transactions and the same years as they are applicable for federal income tax purposes, except
that the repeal of Section 72(d) of the Internal Revenue Code, relating
to repeal of special rule for employees’ annuities, shall apply only to the
following:
   (1) Any individual whose annuity starting date is after December 31,
1986.
   (2) At the election of the taxpayer, any individual whose annuity
starting date is after July 1, 1986, and before January 1, 1987.
   (b) The amount of a distribution from an individual retirement
account or annuity or employees’ trust or employee annuity that is
includable in gross income for federal income tax purposes shall be
reduced for purposes of this part by the lesser of either of the following:
   (1) An amount equal to the amount includable in federal gross income
for the taxable year.
   (2) An amount equal to the basis in the account or annuity allowed by
Section 17507 (relating to individual retirement accounts and simplified
employee pensions) or the increased basis allowed by Sections 17504
and 17506 (relating to plans of self-employed individuals), the increased
basis allowed by Section 17501, or the increased basis allowed by
Section 17551 that is remaining after adjustment for reductions in gross
income under this provision in prior taxable years.
   (c) (1) Except as provided in paragraph (2), the amount of the penalty
imposed under this part shall be computed in accordance with Sections
72(m), (q), (t), and (v) of the Internal Revenue Code using a rate of 21/2
percent, in lieu of the rate provided in those sections.
   (2) In the case where Section 72(t)(6) of the Internal Revenue Code,
relating to special rules for simple retirement accounts, applies, the rate
in paragraph (1) shall be 6 percent in lieu of the 21/2 percent rate specified
therein.
   (d) Section 72(f)(2) of the Internal Revenue Code, relating to special
rules for computing employees’ contributions, shall be applicable
without applying the exceptions which immediately follow that
paragraph.

SEC. 8.  Section 17132 is added to the Revenue and Taxation Code,
to read:

17132.  Section 114 of the Internal Revenue Code, relating to
extraterritorial income, shall not apply.

SEC. 9.  Section 17132.6 is added to the Revenue and Taxation
Code, to read:

17132.6.  A payment under Section 103(c)(10 of the Ricky Ray
Hemophilia Relief Fund Act of 1998 (Public Law 105-369) to an
individual shall be treated for purposes of this part, Part 10.2
(commencing with Section 18401), and Part 11 (commencing with
Section 23001) as damages described in Section 104(a)(2) of the Internal
Revenue Code.
SEC. 10. Section 17140 of the Revenue and Taxation Code is amended to read:

17140. (a) For purposes of this section, the following terms have the following meanings as provided in the Golden State Scholarshare Trust Act (Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code):

(1) “Beneficiary” has the meaning set forth in subdivision (c) of Section 69980 of the Education Code.

(2) “Benefit” has the meaning set forth in subdivision (d) of Section 69980 of the Education Code.

(3) “Participant” has the meaning set forth in subdivision (h) of Section 69980 of the Education Code.

(4) “Participation agreement” has the meaning set forth in subdivision (i) of Section 69980 of the Education Code.

(5) “Scholarshare trust” has the meaning set forth in subdivision (f) of Section 69980 of the Education Code.

(b) Except as otherwise provided in subdivision (c), gross income of a beneficiary or a participant does not include any of the following:

(1) Any distribution or earnings under a Scholarshare trust participation agreement, as provided in Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code.

(2) Any contribution to the Scholarshare trust on behalf of a beneficiary shall not be includable as gross income of that beneficiary.

(c) (1) Any distribution under a Scholarshare trust participation agreement shall be includable in the gross income of the distributee in the manner as provided under Section 72 of the Internal Revenue Code, as modified by Section 17085, to the extent not excluded from gross income under this part. For purposes of applying Section 72 of the Internal Revenue Code, the following apply:

(A) All Scholarshare trust accounts of which an individual is a beneficiary shall be treated as one account, except as otherwise provided.

(B) All distributions during a taxable year shall be treated as one distribution.

(C) The value of the participation agreement, income on the participation agreement, and investment in the participation agreement shall be computed as of the close of the calendar year in which the taxable year begins.

(2) A contribution by a for-profit or nonprofit entity, or by a state or local government agency, for the benefit of an owner or employee of that entity or a beneficiary whom the owner or employee has the power to designate, including the owner or employee’s minor children, shall be included in the gross income of that owner or employee in the year the contribution is made.
(3) For purposes of this subdivision, “distribution” includes any benefit furnished to a beneficiary under a participation agreement, as provided in Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code.

(4) (A) Paragraph (1) shall not apply to that portion of any distribution that, within 60 days of distribution, is transferred to the credit of another beneficiary under the Scholarshare trust who is a “member of the family,” as that term is used in Section 529(e)(2) of the Internal Revenue Code, as amended by Section 211 of the Taxpayer Relief Act of 1997 (Public Law 105-34), of the former beneficiary of that Scholarshare trust.

(B) Any change in the beneficiary of an interest in the Scholarshare trust shall not be treated as a distribution for purposes of paragraph (1) if the new beneficiary is a “member of the family,” as that term is used in Section 529(e)(2) of the Internal Revenue Code, as amended by Section 211 of the Taxpayer Relief Act of 1997 (Public Law 105-34), of the former beneficiary of that Scholarshare trust.

(d) For taxable years beginning on or after January 1, 2002, Sections 529(c) and 529(e) of the Internal Revenue Code, as amended by Section 402 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and Section 417 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147), shall apply in lieu of subdivisions (b) and (c) of this section.

SEC. 11. Section 17140.3 of the Revenue and Taxation Code is amended to read:

17140.3. Section 529 of the Internal Revenue Code, as amended by Section 402 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and Section 417 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147) relating to qualified state tuition programs, shall apply, except as otherwise provided.

(a) Section 529 (a) of the Internal Revenue Code is modified as follows:

(1) By substituting the phrase “under this part and Part 11 (commencing with Section 23001)” in lieu of the phrase “under this subtitle.”

(2) By substituting “Article 2 (commencing with Section 23731)” in lieu of “Section 511.”

(b) A copy of the report required to be filed with the Secretary of the Treasury under Section 529(d) of the Internal Revenue Code shall be filed with the Franchise Tax Board at the same time and in the same manner as specified in that section.

SEC. 12. Section 17144 of the Revenue and Taxation Code is amended to read:
17144. (a) Section 108(b)(2)(B) of the Internal Revenue Code, relating to general business credit, is modified by substituting “this part” in lieu of “Section 38 (relating to general business credit).”

(b) Section 108(b)(2)(G) of the Internal Revenue Code, relating to foreign tax credit carryovers, shall not apply.

(c) Section 108(b)(3)(B) of the Internal Revenue Code, relating to credit carryover reduction, is modified by substituting “11.1 cents” in lieu of “33\(\frac{1}{3}\) cents” in each place in which it appears. In the case where more than one credit is allowable under this part, the credits shall be reduced on a pro rata basis.

(d) Section 108(g)(3)(B) of the Internal Revenue Code, relating to adjusted tax attributes, is modified by substituting “(\(\$9\))” in lieu of “(\(\$3\)).”

(e) (1) If a taxpayer makes an election for federal income tax purposes under Section 108(c) of the Internal Revenue Code, relating to treatment of discharge of qualified real property business indebtedness, a separate election shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5 and the federal election shall be binding for purposes of this part.

(2) If a taxpayer has not made an election for federal income tax purposes under Section 108(c) of the Internal Revenue Code, relating to treatment of discharge of qualified real property business indebtedness, then the taxpayer shall not be allowed to make that election for purposes of this part.

(f) The amendments made to Section 108(d)(7)(A) of the Internal Revenue Code, relating to certain provisions to be applied at the corporate level, by Section 402 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147), shall apply to discharges of indebtedness after December 31, 2001, in taxable years ending after that date. This subdivision shall not apply to any discharge of indebtedness made before March 1, 2002, pursuant to a plan of reorganization filed with a bankruptcy court on or before October 11, 2001.

SEC. 13. Section 17144.5 is added to the Revenue and Taxation Code, to read:

17144.5. Section 132 of the Internal Revenue Code, as amended by Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16), shall apply except as otherwise provided.

SEC. 14. Section 17205 is added to the Revenue and Taxation Code, to read:

17205. Section 219 of the Internal Revenue Code, as amended by Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16), relating to retirement savings, shall apply, except as otherwise provided.
SEC. 15. Section 17251.5 of the Revenue and Taxation Code is repealed.
SEC. 16. Section 17270.5 of the Revenue and Taxation Code is repealed.
SEC. 17. Section 17271 of the Revenue and Taxation Code is repealed.
SEC. 18. Section 17275.5 of the Revenue and Taxation Code is amended to read:

17275.5. (a) No deduction shall be denied under Section 170(f)(8) of the Internal Revenue Code, relating to substantiation requirement for certain contributions, upon a showing that the requirements in Section 170(f)(8) of the Internal Revenue Code have been met with respect to that contribution for federal purposes.

(b) Section 170(f)(10)(F) of the Internal Revenue Code, relating to the excise tax on premiums paid, shall not apply.
SEC. 19. Section 17279.5 of the Revenue and Taxation Code is repealed.
SEC. 20. Section 17501 of the Revenue and Taxation Code is amended to read:

17501. (a) Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code, relating to deferred compensation, shall apply, except as otherwise provided.

(b) Notwithstanding Section 17024.5, Part I of Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code, relating to pension, profit sharing, stock bonus plans, etc., shall apply, except as otherwise provided, without regard to taxable year to the same extent as applicable for federal purposes.

(c) The maximum amount of elective deferrals (as defined in Section 402(g)(3)) for the taxable year that may be excluded from gross income under Section 403(g) of the Internal Revenue Code, as applicable for state purposes, shall not exceed the amount of elective deferrals that may be excluded from gross income under Section 402(g) of the Internal Revenue Code, as amended by Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and Section 411 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147), including additional elective deferrals under Section 414(v) of the Internal Revenue Code, as added by Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and Section 411 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147).

(d) (1) For taxable years beginning on or after January 1, 2002, the basis of any person in the plan, account, or annuity shall be increased by the amount of elective deferrals not excluded as a result of the application of subdivision (c).
(2) Any basis described in paragraph (1) shall be recovered in the manner specified in Section 17085.

(e) Notwithstanding the limitations provided in subdivision (c), any income attributable to elective deferrals in taxable years beginning on or after January 1, 2002, in conformance with Part I of Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code, as applicable for federal and state purposes, shall not be includable in the gross income of the individual for whose benefit the plan or account was established until distributed pursuant to the plan or by operation of law.

SEC. 21. Section 17551 of the Revenue and Taxation Code is amended to read:

17551. (a) Subchapter E of Chapter 1 of Subtitle A of the Internal Revenue Code, relating to accounting periods and methods of accounting, shall apply, except as otherwise provided.

(b) Section 444(c)(1) of the Internal Revenue Code, relating to effect of election, shall not apply.

(c) (1) Notwithstanding Section 17024.5, Section 457 of the Internal Revenue Code, relating to deferred compensation plans of state and local governments and tax-exempt organizations, shall apply, except as otherwise provided, without regard to taxable year to the same extent as applicable for federal purposes.

(2) The maximum deferred compensation for the taxable year that may be excluded from gross income under Section 457 of the Internal Revenue Code shall not exceed the amount of deferred compensation that may be excluded from gross income under Section 457 of the Internal Revenue Code, as amended by Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and Section 411 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147), including additional elective deferrals under Section 414(v) of the Internal Revenue Code, as added by Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and Section 411 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147).

(d) (1) For taxable years beginning on or after January 1, 2002, the basis of any person in the plan shall be increased by the amount of compensation not allowed to be excluded under subdivision (a).

(2) Any basis described in paragraph (1) shall be recovered in the manner specified in Section 17085.

(e) Notwithstanding the limitations provided in subdivision (a), any income attributable to compensation deferred in a plan in taxable years beginning on or after January 1, 2002, in conformance with Section 457 of the Internal Revenue Code, as applicable for federal and state purposes, shall not be includable in the gross income of the individual
for whose benefit the plan was established until distributed pursuant to the plan or by operation of law.

SEC. 22. Section 17552.3 is added to the Revenue and Taxation Code, to read:

17552.3. (a) (1) The options under Sections 112(d)(2) and 112(d)(3) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. Sec. 7212(d)(2) and (3)), as in effect on October 21, 1998, shall be disregarded in determining the taxable year for which any payment under a production flexibility contract under Subtitle B of Title I of that act (as so in effect) is properly includable in gross income for purposes of this part, Part 10.2 (commencing with Section 18401), and Part 11 (commencing with Section 23001).

(2) In order to provide farmers with the same tax treatment for all payments in years beginning before January 1, 2002, with respect to production flexibility contract payments as provided under federal law as modified by Public Law 105-277, this subdivision shall apply to taxable years ending after December 31, 1995.

(b) Any option to accelerate the receipt of any payment under a production flexibility contract entered into on or after January 1, 2002, that is payable under the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. Sec. 7200 et seq.) as in effect on December 17, 1999, shall be disregarded in determining the taxable year for which that payment is properly includable in gross income for purposes of this part, Part 10.2 (commencing with Section 18401), and Part 11 (commencing with Section 23001).

SEC. 23. Section 17560 of the Revenue and Taxation Code is amended to read:

17560. (a) The provisions of Sections 811(c)(4), 811(c)(6), and 811(c)(7) of Public Law 99-514, as modified by Section 1008(f) of Public Law 100-647, shall apply.

(b) The provisions of Section 812 of Public Law 99-514, relating to the disallowance of use of installment method for certain obligations as modified by Section 1008(g) of Public Law 100-647, shall apply to taxable years beginning on or after January 1, 1987.

(c) The repeal of Section 453C of the Internal Revenue Code by Section 10202(a) of Public Law 100-203, relating to repeal of the proportionate disallowance of the installment method, shall apply to dispositions in taxable years beginning on or after January 1, 1990.

(d) (1) In the case of any installment obligation to which Section 453(l)(2)(B) of the Internal Revenue Code applies, in lieu of the provisions of Section 453(l)(3)(A) of the Internal Revenue Code, the tax imposed under Section 17041 or 17048 for any taxable year for which payment is received on that obligation shall be increased by the amount
of interest determined in the manner provided under Section 453(l)(3)(B) of the Internal Revenue Code.

(2) The provisions of Sections 10202 and 10204 of Public Law 100-203 are modified to provide for each of the following:

(A) The provisions of Section 10202 shall apply to dispositions in taxable years beginning on or after January 1, 1990.

(B) The provisions of Section 10204 shall apply to costs incurred in taxable years beginning on or after January 1, 1990.

(C) Any adjustments required by Section 481 of the Internal Revenue Code shall be included in gross income as follows:

(i) Fifty percent in the first taxable year beginning on or after January 1, 1990.

(ii) Fifty percent in the second taxable year beginning on or after January 1, 1990.

(e) (1) In the case of any installment obligation to which Section 453A of the Internal Revenue Code applies and which is outstanding as of the close of the taxable year, in lieu of the provisions of Section 453A(c)(1) of the Internal Revenue Code, the tax imposed by Section 17041 or 17048 for the taxable year shall be increased by the amount of interest determined in the manner provided under Section 453A(c)(2) of the Internal Revenue Code.

(2) The provisions of Section 453A(c)(3)(B) of the Internal Revenue Code, relating to the maximum rate used in calculating the deferred tax liability, are modified to refer to the maximum rate of tax imposed under Section 17041 in lieu of the maximum rate of tax imposed under Section 1 or 11 of the Internal Revenue Code.

(f) (1) The last sentence of Section 453A(d)(4) of the Internal Revenue Code, relating to secured indebtedness, shall not apply.

(2) This subdivision shall apply to sales or other dispositions occurring on or after January 1, 2002.

SEC. 24. Section 17563.5 is added to the Revenue and Taxation Code, to read:

17563.5. (a) The amendment made by Section 7001(a) of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206) to Section 404(a)(11) of the Internal Revenue Code, regarding determinations relating to deferred compensation, shall apply to taxable years beginning on or after January 1, 2002.

(b) In the case of any taxpayer required by enactment of this section to change the method of accounting, for that taxpayer’s first taxable year beginning on or after January 1, 2002, each of the following shall apply for purposes of this part, Part 10.2 (commencing with Section 18401), and Part 11 (commencing with Section 23001):

(1) The change shall be treated as initiated by the taxpayer.
(2) The change shall be treated as made with the consent of the Franchise Tax Board.

(3) The net amount of the adjustments required to be taken into account by the taxpayer under Chapter 6 (commencing with Section 17551) shall be taken into account ratably over the three-taxable-year period beginning with that taxpayer’s first taxable year beginning on or after January 1, 2002.

SEC. 25. Section 17570 of the Revenue and Taxation Code is amended to read:

17570. (a) Section 13233(c)(2)(C) of the Revenue Reconciliation Act of 1993 (Public Law 103-66), relating to the effective date for changes in the mark to market accounting method for securities dealers, is modified to provide that the amount taken into account under Section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the five-taxable-year period beginning with the first taxable year beginning on or after January 1, 1997.

(b) In the case of any taxpayer required by the enactment of the act adding this subdivision, which act incorporated by reference the amendments made by Section 7003 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206) to Section 475 of the Internal Revenue Code, for taxable years beginning on or after January 1, 2002, to change its method of accounting on its first taxable year beginning on or after January 1, 2002, then each of the following shall apply for purposes of this part, Part 10.2 (commencing with Section 18401), and Part 11 (commencing with Section 23001):

(1) The change shall be treated as initiated by the taxpayer.

(2) The change shall be treated as made with the consent of the Franchise Tax Board.

(3) The taxpayer shall not be required to make a change in the method of accounting until the first taxable year beginning on or after January 1, 2002.

(4) The net amount of the adjustments required to be taken into account by the taxpayer under Chapter 6 (commencing with Section 17551) shall be taken into account ratably over the three-taxable-year period beginning with that taxpayer’s first taxable year beginning on or after January 1, 2002.

(c) (1) If a taxpayer has, at any time, made an election for federal purposes under Section 475(e) of the Internal Revenue Code, relating to election of mark to market for dealers in commodities, to have Section 475 of the Internal Revenue Code apply, Section 475 of the Internal Revenue Code shall apply to that dealer in commodities for state purposes, a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5, and the federal election shall be binding for purposes of this part.
(2) If a taxpayer fails to make, or has not previously made, an election for federal purposes under Section 475(e) of the Internal Revenue Code, relating to election of mark to market for dealers in commodities, to have Section 475 of the Internal Revenue Code apply, an election under Section 475(e) of the Internal Revenue Code shall not be allowed for state purposes, Section 475 of the Internal Revenue Code shall not apply to that dealer in commodities for state purposes, and a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5.

(d) (1) If a taxpayer has, at any time, made an election for federal purposes under Section 475(f)(1) of the Internal Revenue Code, relating to election of mark to market for traders in securities, to have Section 475 of the Internal Revenue Code apply to a trade or business, Section 475 of the Internal Revenue Code shall apply to that trader in securities for state purposes with respect to that trade or business, a separate election for state purposes with respect to that trade or business shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5, and the federal election shall be binding for purposes of this part.

(2) If a taxpayer fails to make, or has not previously made, an election for federal purposes under Section 475(f)(1) of the Internal Revenue Code, relating to election of mark to market for traders in securities, to have Section 475 of the Internal Revenue Code apply to a trade or business, an election under Section 475(f)(1) of the Internal Revenue Code shall not be allowed for state purposes with respect to that trade or business, Section 475 of the Internal Revenue Code shall not apply to that trader in securities for state purposes with respect to that trade or business, and a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5.

(e) (1) If a taxpayer has, at any time, made an election for federal purposes under Section 475(f)(2) of the Internal Revenue Code, relating to election of mark to market for traders in commodities, to have Section 475 of the Internal Revenue Code apply to a trade or business, Section 475 of the Internal Revenue Code shall apply to that trader in commodities for state purposes with respect to that trade or business, a separate election for state purposes with respect to that trade or business shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5, and the federal election with respect to that trade or business shall be binding for purposes of this part.

(2) If a taxpayer fails to make, or has not previously made, an election for federal purposes under Section 475(f)(2) of the Internal Revenue Code, relating to election of mark to market for traders in commodities, to have Section 475 of the Internal Revenue Code apply to a trade or business, an election under Section 475(f)(2) of the Internal Revenue Code shall not be allowed for state purposes with respect to that trade or
business, Section 475 of the Internal Revenue Code shall not apply to that trader in commodities for state purposes with respect to that trade or business, and a separate election for state purposes with respect to that trade or business shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5.

(f) (1) An election under Section 475(e) or (f) of the Internal Revenue Code made for federal purposes with respect to a taxable year beginning before January 1, 1998, shall be treated as having been made for state purposes with respect to the first taxable year beginning on or after January 1, 1998.

(2) Section 1001(d)(4)(B) of the Taxpayer Relief Act of 1997 (Public Law 105-34), relating to the effective date for election of mark to market by securities traders and traders and dealers in commodities, is modified to provide that the requirement for timely identification shall be treated as timely made for state purposes if that identification is treated as timely made for federal purposes, and the amount taken into account under Section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the four-taxable-year period beginning with the first taxable year beginning on or after January 1, 1998.

SEC. 26. Section 17731.5 of the Revenue and Taxation Code is amended to read:

17731.5. (a) Section 641(c)(2)(A) of the Internal Revenue Code is modified to read: “The amount of the tax imposed by subdivision (e) of Section 17041 shall be determined by using the highest rate of tax applicable to an individual under subdivision (a) of Section 17041.”

(b) Section 641(c)(2)(B) of the Internal Revenue Code is modified to read: “The credit allowed under subdivision (b) of Section 17733 shall be zero.”

SEC. 27. Section 17751 of the Revenue and Taxation Code is amended to read:

17751. Section 645 of the Internal Revenue Code, relating to certain revocable trusts treated as part of estate, is modified as follows:

(a) An election under Section 645(a) of the Internal Revenue Code for federal purposes shall be treated for purposes of this part as an election made by the executor, if any, of the estate and the trustee of the qualified revocable trust under Section 645(a) of the Internal Revenue Code for state purposes and a separate election under paragraph (3) of subdivision (e) of Section 17024.5 shall not be allowed.

(b) If the executor, if any, of the estate and the trustee of a qualified revocable trust fail to make an election under Section 645(a) of the Internal Revenue Code for federal purposes with respect to that qualified revocable trust, that trust shall be treated and taxed for purposes of this part as a separate trust, an election under Section 645(a) of the Internal Revenue Code for state purposes with respect to that trust shall not be
allowed, and a separate election under paragraph (3) of subdivision (e) of Section 17024.5 shall not be allowed with respect to that trust.

SEC. 28. Section 18038.5 of the Revenue and Taxation Code is amended to read:

18038.5. (a) In the case of any sale of qualified small business stock held by a taxpayer other than a corporation for more than six months and with respect to which that taxpayer elects the application of this section, gain from that sale shall be recognized only to the extent that the amount realized on that sale exceeds:

(1) The cost of any qualified small business stock purchased by the taxpayer during the 60-day period beginning on the date of that sale, reduced by

(2) Any portion of the cost previously taken into account under this section.

This section shall not apply to any gain that is treated as ordinary income for purposes of this part.

(b) For purposes of this section:

(1) The term “qualified small business stock” has the meaning given that term by subdivision (c) of Section 18152.5.

(2) A taxpayer shall be treated as having purchased any property if, but for paragraph (3), the unadjusted basis of that property in the hands of the taxpayer would be its cost (within the meaning of Section 1012 of the Internal Revenue Code).

(3) If gain from any sale is not recognized by reason of subdivision (a), that gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any qualified small business stock that is purchased by the taxpayer during the 60-day period described in subdivision (a).

(4) For purposes of determining whether the nonrecognition of gain under subdivision (a) applies to stock that is sold, both of the following shall apply:

(A) The taxpayer’s holding period for that stock and the stock referred to in paragraph (1) of subdivision (a) shall be determined without regard to section 1223 of the Internal Revenue Code.

(B) Only the first six months of the taxpayer’s holding period for the stock referred to in paragraph (1) of subdivision (a) shall be taken into account for purposes of applying paragraph (2) of subdivision (c) of Section 18152.5.

(5) Rules similar to the rules of subdivisions (f), (g), (h), (i), (j), and (k) of Section 18152.5 shall apply.

(c) This section shall apply to sales made after August 5, 1997.

SEC. 29. Section 19136 of the Revenue and Taxation Code is amended to read:
19136. (a) Section 6654 of the Internal Revenue Code, relating to failure by an individual to pay estimated income tax, shall apply, except as otherwise provided.

(b) Section 6654(a)(1) of the Internal Revenue Code is modified to refer to the rate determined under Section 19521 in lieu of Section 6621 of the Internal Revenue Code.

(c) (1) Section 6654(e)(1) of the Internal Revenue Code, relating to exceptions where the tax is a small amount, shall not apply.

(2) No addition to the tax shall be imposed under this section if the tax imposed under Section 17041 or 17048 for the preceding taxable year, minus the sum of any credits against the tax provided by Part 10 (commencing with Section 17001) or this part, or the tax computed under Section 17041 or 17048 upon the estimated income for the taxable year, minus the sum of any credits against the tax provided by Part 10 (commencing with Section 17001) or this part, is less than two hundred dollars ($200), except in the case of a separate return filed by a married person the amount shall be less than one hundred dollars ($100).

(d) Section 6654(f) of the Internal Revenue Code shall not apply and for purposes of this section the term “tax” means the tax imposed under Section 17041 or 17048, less any credits against the tax provided by Part 10 (commencing with Section 17001) or this part, other than the credit provided by subdivision (a) of Section 19002.

(e) The credit for tax withheld on wages, as specified in Section 6654(g) of the Internal Revenue Code, shall be the credit allowed under subdivision (a) of Section 19002.

(f) This section shall apply to a nonresident individual.

SEC. 30. Section 19136.8 is added to the Revenue and Taxation Code, to read:

19136.8. (a) No addition to tax shall be made under Section 19136 for any period before April 15, 2003, with respect to any underpayment of an installment for the 2002 taxable year, to the extent that the underpayment was created or increased by any provision of the act adding this section.

(b) No addition to tax shall be made under Section 19142 for any period before April 15, 2003, with respect to any underpayment of an installment for the 2002 taxable year, to the extent that the underpayment was created or increased by any provision of the act adding this section.

(c) The Franchise Tax Board shall implement this section in a reasonable manner.

SEC. 31. Section 19141 of the Revenue and Taxation Code is amended to read:

19141. Upon certification by the Secretary of State pursuant to subdivision (a) of Section 2204 or subdivision (a) of Section 17563 of the Corporations Code, the Franchise Tax Board shall assess a penalty
of two hundred fifty dollars ($250). Upon certification by the Secretary of State pursuant to subdivision (a) of Section 6810 or subdivision (a) of Section 8810 of the Corporations Code, the Franchise Tax Board shall assess a penalty of fifty dollars ($50). Any penalty assessed under this section shall be a final assessment due and payable at the time of assessment but no interest shall accrue thereon. The assessment shall be collected as other taxes, interest, and penalties are collected by the Franchise Tax Board unless the Secretary of State decertifies the name of the corporation as provided in subdivision (e) or (f) of Section 2204, subdivision (e) of Section 6810, or subdivision (e) of Section 8810 of the Corporations Code.

SEC. 32. Section 19365 of the Revenue and Taxation Code is amended to read:

19365. (a) (1) A corporation electing to be treated as an “S corporation” for a taxable year beginning in 2002 under Chapter 4.5 (commencing with Section 23800) of Part 11 may file an application for the transfer of an overpayment with respect to payments of estimated tax for taxable years beginning in 2002 to the personal income tax accounts of its shareholders. An application under this subdivision shall not constitute a claim for credit or refund.

(2) An application under this subdivision shall be verified in the manner prescribed by Section 18621 in the case of the taxpayer, and shall be filed in the manner and form prescribed by the Franchise Tax Board. The application shall set forth all of the following:

(A) The amount the “S corporation” estimates as its tax liability under this part for the taxable year, which shall not be less than the greater of 1 1/2 percent of its net income or the applicable minimum franchise tax.

(B) The amount and date of the estimated tax paid during the taxable year.

(C) For each shareholder affected, his or her name, social security account number, address, and percentage of ownership, and any changes in that percentage of ownership for the S corporation’s taxable year, the amount of each overpayment to be transferred, and the date the amount was paid.

(D) Any other information for purposes of carrying out this section as may be required by the Franchise Tax Board.

(b) (1) Within a period of 45 days from the date on which an application for a transfer is filed under subdivision (a), the Franchise Tax Board shall make, to the extent it deems practicable in that period, a limited examination of the application to discover omissions and errors therein, and shall determine the final amount of the transfers upon the basis of the application and the examination, except that the Franchise Tax Board may disallow, without further action, any application which
it finds contains material omissions or errors which it deems cannot be corrected within the 45-day period.

(2) The Franchise Tax Board, within the 45-day period referred to in paragraph (1), may credit the amount of the overpayment against any liability on the part of the taxpayer under Part 11 (commencing with Section 23001).

(3) In the event the amount available for transfer is less than requested by the taxpayer, the overpayment amount shall be allocated among the shareholders on a pro rata basis based on their percentage of ownership stated on the application.

(4) For purposes of Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), and this part, the transferred amounts shall be treated as if they had been estimated tax payments paid by the respective shareholders on the date originally paid by the corporation.

(5) No application under subdivision (a) shall be allowed unless the amount to be transferred equals or exceeds five hundred dollars ($500).

(6) Each S corporation which files an application for transfer of overpayments under subdivision (a) shall furnish to each person who is a shareholder at any time during the taxable year a statement showing amounts and dates of the overpayments being transferred to that person’s personal income tax account.

SEC. 33. Section 19521 of the Revenue and Taxation Code is amended to read:

19521. (a) The rate established under this section (referred to in other code sections as “the adjusted annual rate”) shall be determined in accordance with Section 6621 of the Internal Revenue Code, except that:

(1) The overpayment rate specified in Section 6621(a)(1) of the Internal Revenue Code shall be modified to be equal to the underpayment rate determined under Section 6621(a)(2) of the Internal Revenue Code; and

(2) The determination specified in Section 6621(b) of the Internal Revenue Code shall be modified to be determined semiannually as follows:

(A) The rate for January shall apply during the following July through December, and

(B) The rate for July shall apply during the following January through June.

(b) (1) For purposes of this part, Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), and any other provision of law referencing this method of computation, in computing the amount of any interest required to be paid by the state or by the
taxpayer, or any other amount determined by reference to that amount of interest, that interest and that amount shall be compounded daily.

(2) Paragraph (1) shall not apply for purposes of computing the amount of any addition to tax under Section 19136 or 19142.

(c) Section 6621(c) of the Internal Revenue Code, relating to increase in underpayment rate for large corporate underpayments, is modified as follows:

(1) The applicable date shall be the 30th day after the earlier of either of the following:
   (A) The date on which the proposed deficiency assessment is issued.
   (B) The date on which the notice and demand is sent.

(2) This subdivision shall apply for purposes of determining interest for periods after December 31, 1991.

(3) Section 6621(c)(2)(B)(iii) of the Internal Revenue Code shall apply for purposes of determining interest for periods after December 31, 1998.

(d) Section 6621(d) of the Internal Revenue Code, relating to the elimination of interest on overlapping periods of tax overpayments and underpayments, shall not apply.

SEC. 34. Section 23038.5 of the Revenue and Taxation Code is amended to read:

23038.5. (a) Section 7704 of the Internal Revenue Code, relating to certain publicly traded partnerships treated as corporations, shall apply, except as otherwise provided.

(b) (1) Section 7704(a) of the Internal Revenue Code shall not apply to an electing 1987 partnership.

(2) For purposes of this subdivision, the term “electing 1987 partnership” means any publicly traded partnership if all of the following apply:

   (A) The partnership is an existing partnership (as defined in Section 10211(c)(2) of the Revenue Reconciliation Act of 1987).
   (B) Section 7704(a) of the Internal Revenue Code has not applied (and without regard to Section 7704(c)(1) of the Internal Revenue Code would not have applied) to that partnership for all prior taxable years beginning after December 31, 1987, and before January 1, 1998.
   (C) (i) The partnership has made the election under Section 7704(g)(2)(C) of the Internal Revenue Code for federal tax purposes.
       (ii) The election for federal tax purposes described in clause (i) shall be treated as a binding election and a separate election for state tax purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 23051.5.
       (iii) The election for federal tax purposes described in clause (i) shall be treated as a binding consent to the application of the tax imposed under paragraph (3) and a separate election for state tax purposes shall
not be allowed under paragraph (3) of subdivision (e) of Section 23051.5.

(D) A partnership that, but for this subparagraph, would be treated as an electing 1987 partnership shall cease to be so treated (and the election under subparagraph (C) shall cease to be in effect) as of the first day after December 31, 1997, that the partnership is no longer treated as an electing 1987 partnership for federal tax purposes (and the election under Section 7704(g)(2)(C) of the Internal Revenue Code ceases to be in effect for federal tax purposes).

(3) (A) There is hereby imposed for each taxable year beginning on or after January 1, 1998, on the gross income of each electing 1987 partnership a tax equal to 1 percent of that partnership’s gross income from all sources reportable to this state, taking into account Section 25101 and any election under Section 25110, attributable to the active conduct of trades and businesses by the partnership.

(B) The tax shall be due and payable on the date the return of the partnership is required to be filed under Section 18633 and shall be paid by the partnership. The tax shall be paid, collected, and refunded in the same manner as other taxes imposed by this part on corporations, and shall be subject to interest and applicable penalties. Section 19147 shall be applied to the partnership with respect to the tax imposed by this paragraph in the same manner as if references in that section to the taxable income were references to gross income referred to in subparagraph (A).

(C) For purposes of this paragraph, if a partnership is a partner in another partnership, the gross income referred to in subparagraph (A) shall include the partnership’s distributive share of the gross income of the other partnership from all sources reportable to this state, taking into account Section 25101 and any election under Section 25110, attributable to the active conduct of trades and businesses of that other partnership. A similar rule shall apply in the case of lower-tiered partnerships.

(D) The tax imposed by this paragraph shall be treated as imposed by this part other than for purposes of determining the amount of any credit allowable under this part.

(4) The provisions of this subdivision shall apply to the taxable year for which the election described in clause (i) of subparagraph (C) of paragraph (2) is made for federal purposes and all subsequent taxable years unless revoked by the partnership for federal purposes. Any revocation made for federal purposes shall be treated as a binding revocation under this part, but, once so revoked, may not be reinstated and a separate revocation for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 23051.5.
(c) The amendment made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 1998.

SEC. 35. Section 23456 of the Revenue and Taxation Code is amended to read:

23456. For purposes of this part, Section 56 of the Internal Revenue Code is modified as follows:

(a) (1) Section 56(a)(2) of the Internal Revenue Code, relating to mining exploration and development costs, shall apply only to expenses incurred during taxable years beginning on or after January 1, 1988.

(2) Section 56(a)(5) of the Internal Revenue Code, relating to pollution control facilities, shall apply only to amounts allowable as a deduction under Section 24372.3.

(3) (A) Section 56(a)(6) of the Internal Revenue Code, as in effect on January 1, 1997, relating to installment sales of certain property, shall not apply to payments received in taxable years beginning on or after January 1, 1997, with respect to dispositions occurring in taxable years beginning after December 31, 1987.

(B) This paragraph shall not apply to any taxable year beginning on or after January 1, 1998.

(b) For purposes of applying Section 56(d) of the Internal Revenue Code, all references to “December 31, 1986,” are modified to read “December 31, 1987,” and all references to “January 1, 1987,” are modified to read “January 1, 1988.”

(c) Section 56(d)(1) of the Internal Revenue Code, relating to the alternative tax net operating loss deduction, is modified to include the provisions of Section 25108.

(d) For each taxable year beginning on or after January 1, 1988, and before January 1, 1990, Section 56(f)(2)(E) of the Internal Revenue Code, as it read during that period, is modified to refer to both of the following:

(1) Cooperatives under Section 24404 in lieu of the deduction allowed under Section 1382(b) of the Internal Revenue Code.

(2) Credit unions under Section 24405 as though the deduction allowed under Section 1382(b) of the Internal Revenue Code applied to credit unions.

(e) Section 56(g) of the Internal Revenue Code, relating to adjustments based on adjusted current earnings, is modified to provide that for corporations whose income is determined under Chapter 17 (commencing with Section 25101), adjusted current earnings shall be allocated and apportioned in the same manner as net income is allocated and apportioned for purposes of the regular tax. In addition, each of the following shall apply:
(1) Sections 56(g)(1)(A) and 56(g)(3) of the Internal Revenue Code are modified to provide that the term "adjusted current earnings" means the sum of the adjusted current earnings of that corporation apportionable to this state and the adjusted current earnings allocable to this state.

(2) Section 56(g)(1)(B) of the Internal Revenue Code is modified to provide that the term "alternative minimum taxable income" means the sum of the alternative minimum taxable income of that corporation apportionable to this state and the alternative minimum taxable income allocable to this state.

(f) Section 56(g)(4)(A) of the Internal Revenue Code is modified to provide the following:

(1) In the case of any property placed in service on or after January 1, 1981, and prior to January 1, 1987, other than residential rental property for which an election was made under former Section 24349.5, the amount allowable as depreciation or amortization with respect to that property shall be the same amount that would have been allowable for the taxable year had the taxpayer depreciated the property under the straight line method for each taxable year of the useful life (determined without regard to Section 24354.2) for which the taxpayer has held the property.

(2) In the case of any property placed in service on or after January 1, 1987, and prior to January 1, 1990, other than residential rental property for which an election was made under former Section 24349.5, the amount allowable as depreciation or amortization with respect to that property shall be determined by each of the following:

(A) Taking into account the adjusted basis of that property (as determined for purposes of computing alternative minimum taxable income) as of the close of the last taxable year beginning before January 1, 1990.

(B) Using the straight line method over the remainder of the recovery period applicable to that property under the alternative system of Section 168(g) of the Internal Revenue Code.

(3) The amendments made to paragraph (2) by the act adding this paragraph shall apply to taxable years beginning on or after January 1, 1990.

(4) The last sentence of Section 56(g)(4)(A)(i) of the Internal Revenue Code, shall not apply to taxable years beginning before January 1, 1998.

(g) (1) Section 56(g)(4)(C) of the Internal Revenue Code, relating to disallowance of items not deductible in computing earnings and profits, shall be modified as follows:
(A) (i) A deduction shall be allowed for amounts allowable as a deduction for purposes of the regular tax under Sections 24402, 24410, 24411, and 25106.

(ii) For each taxable year beginning on or after January 1, 1990, a deduction shall be allowed for amounts allowable as a deduction to a credit union for purposes of the regular tax under Section 24405.

(B) Section 56(g)(4)(C)(ii) of the Internal Revenue Code, relating to special rule for 100-percent dividends, shall not be applicable.

(C) Section 56(g)(4)(C)(iii) of the Internal Revenue Code, relating to special rule for dividends from Section 936 companies, shall not be applicable.

(D) Section 56(g)(4)(C)(iv) of the Internal Revenue Code, relating to special rule for certain dividends received by certain cooperatives, shall not be applicable.

(2) Section 56(g)(4)(D)(ii) of the Internal Revenue Code is modified to specify that Sections 24364 and 24407 shall not apply to expenditures paid or incurred in taxable years beginning on or after January 1, 1990.

(3) With respect to corporations that are not subject to the tax imposed under Chapter 2 (commencing with Section 23101), the amount of interest income included in the adjusted current earnings shall not exceed the amount of interest income included for purposes of the regular tax.

(4) Appropriate adjustments shall be made to limit deductions from adjusted current earnings for interest expense in accordance with the provisions of Sections 24344 and 24425.

SEC. 36. Section 23456.5 is added to the Revenue and Taxation Code, to read:

23456.5. The amendments to Section 56 of the Internal Revenue Code by Section 4(1) of Public Law 106-519, regarding adjustments in computing alternative minimum tax income relating to the exclusion under Section 114 of the Internal Revenue Code, shall not apply.

SEC. 37. Section 23457 of the Revenue and Taxation Code is amended to read:

23457. For purposes of this part, Section 57 of the Internal Revenue Code is modified as follows:

(a) Section 57(a)(5) of the Internal Revenue Code, relating to tax-exempt interest, shall not be applicable.

(b) Section 57(a) of the Internal Revenue Code, relating to items of tax preference, is modified to include as an item of tax preference the amount by which the deduction allowable under Section 24348 for the taxable year for a reasonable addition to a reserve for bad debts exceeds the amount that would have been allowable had the taxpayer maintained its bad debt reserve for all taxable years on the basis of actual experience.
(c) Section 57(a)(6) of the Internal Revenue Code, relating to accelerated depreciation or amortization on certain property placed in service before January 1, 1987, is modified to read: With respect to each property as described in Section 1250(c) of the Internal Revenue Code as that provision read on April 1, 1970, the amount by which the deduction allowable for the taxable year for exhaustion, wear, tear, obsolescence, or amortization exceeds the depreciation deduction that would have been allowable for the taxable year, had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life (determined without regard to Section 24354.2 or 24381) for which the taxpayer has held the property.

SEC. 38. Section 23609 of the Revenue and Taxation Code is amended to read:

23609. For each taxable year beginning on or after January 1, 1987, there shall be allowed as a credit against the “tax” (as defined by Section 23036) an amount determined in accordance with Section 41 of the Internal Revenue Code, except as follows:

(a) For each taxable year beginning before January 1, 1997, both of the following modifications shall apply:

(1) The reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “8 percent.”

(2) The reference to “20 percent” in Section 41(a)(2) of the Internal Revenue Code is modified to read “12 percent.”

(b) (1) For each taxable year beginning on or after January 1, 1997, and before January 1, 1999, both of the following modifications shall apply:

(A) The reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “11 percent.”

(B) The reference to “20 percent” in Section 41(a)(2) of the Internal Revenue Code is modified to read “24 percent.”

(2) For each taxable year beginning on or after January 1, 1999, and before January 1, 2000, both of the following shall apply:

(A) The reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “12 percent.”

(B) The reference to “20 percent” in Section 41(a)(2) of the Internal Revenue Code is modified to read “24 percent.”

(3) For each taxable year beginning on or after January 1, 2000, both of the following shall apply:

(A) The reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “15 percent.”

(B) The reference to “20 percent” in Section 41(a)(2) of the Internal Revenue Code is modified to read “24 percent.”

(c) (1) With respect to any expense paid or incurred after the operative date of Section 6378, Section 41(b)(1) of the Internal Revenue
Code is modified to exclude from the definition of “qualified research expense” any amount paid or incurred for tangible personal property that is eligible for the exemption from sales or use tax provided by Section 6378.

(2) “Qualified research” and “basic research” shall include only research conducted in California.

(d) The provisions of Section 41(e)(7)(A) of the Internal Revenue Code, shall be modified so that “basic research,” for purposes of this section, includes any basic or applied research including scientific inquiry or original investigation for the advancement of scientific or engineering knowledge or the improved effectiveness of commercial products, except that the term does not include any of the following:

1. Basic research conducted outside California.

2. Basic research in the social sciences, arts, or humanities.

3. Basic research for the purpose of improving a commercial product if the improvements relate to style, taste, cosmetic, or seasonal design factors.

4. Any expenditure paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (including oil and gas).

(e) (1) In the case of a taxpayer engaged in any biopharmaceutical research activities that are described in codes 2833 to 2836, inclusive, or any research activities that are described in codes 3826, 3829, or 3841 to 3845, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, or any other biotechnology research and development activities, the provisions of Section 41(e)(6) of the Internal Revenue Code shall be modified to include both of the following:

A. A qualified organization as described in Section 170(b)(1)(A)(iii) of the Internal Revenue Code and owned by an institution of higher education as described in Section 3304(f) of the Internal Revenue Code.

B. A charitable research hospital owned by an organization that is described in Section 501(c)(3) of the Internal Revenue Code, is exempt from taxation under Section 501(a) of the Internal Revenue Code, is not a private foundation, is designated a “specialized laboratory cancer center,” and has received Clinical Cancer Research Center status from the National Cancer Institute.

(2) For purposes of this subdivision:

A. “Biopharmaceutical research activities” means those activities that use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms
to make commercial products, as opposed to pharmaceutical activities that make use of chemical compounds to produce commercial products.

(B) “Other biotechnology research and development activities” means research and development activities consisting of the application of recombinant DNA technology to produce commercial products, as well as research and development activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(f) In the case where the credit allowed by this section exceeds the “tax,” the excess may be carried over to reduce the “tax” in the following year, and succeeding years if necessary, until the credit has been exhausted.

(g) For each taxable year beginning on or after January 1, 1998, the reference to “Section 501(a)” in Section 41(b)(3)(C) of the Internal Revenue Code, relating to contract research expenses, is modified to read “this part or Part 10 (commencing with Section 17001).”

(h) (1) For each taxable year beginning on or after January 1, 2000:

(A) The reference to “2.65 percent” in Section 41(c)(4)(A)(i) of the Internal Revenue Code is modified to read “one and forty-nine hundredths of one percent.”

(B) The reference to “3.2 percent” in Section 41(c)(4)(A)(ii) of the Internal Revenue Code is modified to read “one and ninety-eight hundredths of one percent.”

(C) The reference to “3.75 percent” in Section 41(c)(4)(A)(iii) of the Internal Revenue Code is modified to read “two and forty-eight hundredths of one percent.”

(2) Section 41(c)(4)(B) shall not apply and in lieu thereof an election under Section 41(c)(4)(A) of the Internal Revenue Code may be made for any taxable year of the taxpayer beginning on or after January 1, 1998. That election shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Franchise Tax Board.

(3) Section 41(c)(6) of the Internal Revenue Code, relating to gross receipts, is modified to take into account only those gross receipts from the sale of property held primarily for sale to customers in the ordinary course of the taxpayer’s trade or business that is delivered or shipped to a purchaser within this state, regardless of f.o.b. point or any other condition of the sale.

(i) Section 41(h) of the Internal Revenue Code, relating to termination, shall not apply.

(j) Section 41(g) of the Internal Revenue Code, relating to special rule for passthrough of credit, is modified by each of the following:

(1) The last sentence shall not apply.
(2) If the amount determined under Section 41(a) of the Internal Revenue Code for any taxable year exceeds the limitation of Section 41(g) of the Internal Revenue Code, that amount may be carried over to other taxable years under the rules of subdivision (f), except that the limitation of Section 41(g) of the Internal Revenue Code shall be taken into account in each subsequent taxable year.

SEC. 39. Section 23701s of the Revenue and Taxation Code is amended to read:

23701s. (a) An employee-funded pension trust described in Section 501(c)(18) of the Internal Revenue Code, except as otherwise provided.

(b) The last sentence in Section 501(c)(18) of the Internal Revenue Code, as amended by Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16), relating to excess contributions under Section 4979, shall not apply.

SEC. 40. Section 23705 of the Revenue and Taxation Code is amended to read:

23705. (a) (1) An organization described in Section 23701i (voluntary employee’s beneficiary associations) or 23701q (qualified group legal service plans) which is part of a plan of an employer shall not be exempt from tax under Section 23701, unless that plan meets the requirements of Section 505(b) of the Internal Revenue Code, as amended by Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16).

(2) Paragraph (1) shall not apply to any organization described in Section 505(a)(2) of the Internal Revenue Code.

(b) A copy of any notice filed with the Secretary of the Treasury, pursuant to Section 505(c) of the Internal Revenue Code, relating to application for tax-exempt status, shall be filed at the same time and in the same manner with the Franchise Tax Board.

SEC. 41. Section 23711 of the Revenue and Taxation Code is amended to read:

23711. Section 529 of the Internal Revenue Code, as amended by Section 402 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and Section 417 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147), relating to qualified state tuition programs, shall apply, except as otherwise provided.

(a) Section 529(a) of the Internal Revenue Code is modified as follows:

(1) By substituting the phrase “under Part 10 (commencing with Section 17001) and this part” in lieu of the phrase “under this subtitle.”

(2) By substituting “Article 2 (commencing with Section 23731)” in lieu of “section 511.”
(b) A copy of the report required to be filed with the Secretary of the Treasury under Section 529(d) of the Internal Revenue Code shall be filed with the Franchise Tax Board at the same time and in the same manner as specified in that section.

SEC. 42. Section 23712 of the Revenue and Taxation Code is amended to read:

23712. Section 530 of the Internal Revenue Code, as amended by Sections 401 and 402 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and Section 411 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147), relating to education individual retirement accounts, shall apply, except as otherwise provided.

(a) Section 530(a) of the Internal Revenue Code is modified as follows:

(1) By substituting the phrase “under Part 10 (commencing with Section 17001) and this part” in lieu of the phrase “under this subtitle.”

(2) By substituting “Article 2 (commencing with Section 23731)” in lieu of “section 511.”

(b) For taxable years beginning before January 1, 2002, Section 530(b)(1) of the Internal Revenue Code, relating to the definition of education individual retirement account, is modified to additionally require that upon the date that the designated beneficiary becomes 30 years of age, any balance to the credit of the beneficiary shall be distributed within 30 days after the date the beneficiary becomes 30 years of age to that beneficiary.

(c) Section 530(d) of the Internal Revenue Code is modified as follows:

(1) By substituting the phrase “under Part 10 (commencing with Section 17001) in the manner as provided in Section 72(b) of the Internal Revenue Code, as modified by Part 10” in lieu of the phrase “in the manner as provided in Section 72(b)” in Section 530(d)(1) of the Internal Revenue Code.

(2) (A) A taxpayer that has elected to waive the application of Section 530(d)(2) of the Internal Revenue Code for federal income tax purposes shall be treated as having waived the application of that paragraph for state purposes, a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5 or paragraph (3) of subdivision (e) of Section 23051.5, and the federal election shall be binding for purposes of Part 10 (commencing with Section 17001) and this part.

(B) If a taxpayer fails to make an election under Section 530(d)(2)(C) of the Internal Revenue Code for federal income tax purposes to waive the application of Section 530(d)(2) of the Internal Revenue Code, an election under Section 530(d)(2)(C) of the Internal Revenue Code shall
not be allowed for state purposes, Section 530(d)(2)(A) and (B) of the Internal Revenue Code shall apply for state purposes, and a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5.

(3) (A) By substituting the phrase “tax imposed by Part 10 (commencing with Section 17001)” in lieu of the phrase “tax imposed by this chapter” in Section 530(d)(4)(A) of the Internal Revenue Code.

(B) By substituting the phrase “increased by 21/2 percent” in lieu of the phrase “increased by 10 percent” in Section 530(d)(4)(A) of the Internal Revenue Code.

(C) By substituting the phrase “shall be included in the contributor’s gross income under Part 10 (commencing with Section 17001) or this part” in lieu of the phrase “shall be included in gross income” in Section 530(d)(4)(C) of the Internal Revenue Code.

(d) For purposes of Part 10 (commencing with Section 17001) and this part, in the case of a custodial account treated as a trust by reason of Section 530(g) of the Internal Revenue Code, the custodian of that account shall be treated as the trustee thereof.

(e) A copy of the report, which is required to be filed with the Secretary of the Treasury under Section 530(h) of the Internal Revenue Code, shall be filed with the Franchise Tax Board at the same time and in the same manner as specified in that section.

SEC. 43. Section 23801 of the Revenue and Taxation Code is amended to read:

23801. (a) Except as otherwise provided, a corporation that has in effect for federal income tax purposes a valid election under Section 1362(a) of the Internal Revenue Code shall be an “S” corporation for purposes of Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), and this part.

(b) A corporation that is an “S corporation” for federal income tax purposes, shall be an “S corporation” for purposes of Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401) and this part, and its shareholders shall be shareholders of an “S corporation” without regard to whether the corporation is qualified to do business or is incorporated in this state.

(c) Notwithstanding subdivision (a), a corporation that elects “S corporation” status under Section 1362 of the Internal Revenue Code for federal income tax purposes but which is not qualified to be an “S corporation” under subdivision (a) of Section 23800.5, shall not be an “S corporation” for purposes of Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401, and this part.

(d) Except as provided in subdivision (e), a corporation that is an “S corporation” for purposes of this part shall not be included in a combined report pursuant to Chapter 17 (commencing with Section 25101).
(e) (1) In cases where the Franchise Tax Board determines that the reported income or loss of a group of commonly owned or controlled corporations (within the meaning of Section 25105), which includes one or more corporations treated as an “S corporation” under Chapter 4.5 (commencing with Section 23800), does not clearly reflect income (or loss) of a member of that group or represents an evasion of tax by one or more members of that group, and the Franchise Tax Board determines that the comparable uncontrolled price method prescribed by regulations pursuant to Section 482 of the Internal Revenue Code cannot practically be applied, the Franchise Tax Board may, in lieu of other methods prescribed by regulations pursuant to Section 482 of the Internal Revenue Code, apply methods of unitary combination, pursuant to Article 1 (commencing with Section 25101) of Chapter 17, to properly reflect the income or loss of the members of the group.

(2) The application of the provisions of this subdivision shall not affect the treatment of any corporation as an “S corporation.”

(f) The tax for a “C corporation” for a short year shall be determined in accordance with Chapter 13 (commencing with Section 24631), in lieu of Section 1362(e)(5) of the Internal Revenue Code.

(g) (1) A termination of a federal election pursuant to Section 1362(d) of the Internal Revenue Code, that is not an inadvertent termination pursuant to Section 1362(f) of the Internal Revenue Code, shall simultaneously terminate the “S corporation” election for purposes of Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), and this part.

(2) A federal termination by revocation shall be effective for purposes of this part and shall be reported to the Franchise Tax Board in the form and manner prescribed by the Franchise Tax Board no later than the last date allowed for filing federal termination for that year under Section 1362(d) of the Internal Revenue Code.

(h) For taxable years beginning on or after January 1, 1997, for purposes of subparagraph (F) of paragraph (4) of subdivision (a) of this section and Section 1362(g) of the Internal Revenue Code, relating to election after termination, any termination under Section 1362(d) of the Internal Revenue Code or election to be treated as a “C corporation” under subparagraph (A) or (C) of paragraph (4) of subdivision (a), or to terminate by revocation under paragraph (3) of subdivision (f) in a taxable year beginning before January 1, 1997, shall not be taken into account.

(i) (1) The provisions of Section 1362(b)(5) of the Internal Revenue Code, relating to authority to treat late elections, etc., as timely, shall apply only for taxable years beginning on or after January 1, 1997, with respect to elections under Section 1362(a) of the Internal Revenue Code for taxable years beginning on or after January 1, 1997.
(2) Notwithstanding the provisions of paragraph (1), if for any taxable year beginning on or after January 1, 1987, a corporation fails to qualify as an “S corporation” for federal income tax purposes solely because the federal Form 2553 (Election by a Small Business Corporation) was not filed timely, the corporation shall be treated for purposes of this part as an “S corporation” for the taxable year the “S corporation” election should have been made, and for each subsequent year until terminated, if both of the following conditions are met:

(A) The corporation and all of its shareholders reported their income for California tax purposes on original returns consistent with “S corporation” status for the year the “S corporation” election should have been made, and for each subsequent taxable year (if any) until terminated.

(B) The corporation and its shareholders have filed with the Internal Revenue Service a federal Form 2553 requesting automatic relief with respect to the late “S corporation” election, in full compliance with the federal Revenue Procedure 1997-48, I.R.B. 1997-43, and have received notification of the acceptance of the untimely filed “S corporation” election from the Internal Revenue Service. A copy of the notification shall be provided to the Franchise Tax Board upon request.

(j) The provisions of Section 1362(f) of the Internal Revenue Code, relating to inadvertent invalid elections or terminations, shall apply only for taxable years beginning on or after January 1, 1997, with respect to elections under Section 1362(a) of the Internal Revenue Code for taxable years beginning on or after January 1, 1997.

SEC. 44. Section 23802 of the Revenue and Taxation Code is amended to read:

23802. (a) Section 1363(a) of the Internal Revenue Code, relating to the taxability of an “S corporation,” shall not be applicable.

(b) Corporations qualifying under this chapter shall continue to be subject to the taxes imposed under Chapter 2 (commencing with Section 23101) and Chapter 3 (commencing with Section 23501), except as follows:

(1) The tax imposed under Section 23151 or 23501 shall be imposed at a rate of 1 1/2 percent rather than the rate specified in those sections.

(2) In the case of an “S corporation” which is also a financial corporation, the rate of tax specified in paragraph (1) shall be increased by the excess of the rate imposed under Section 23183 over the rate imposed under Section 23151.

(c) An “S corporation” shall be subject to the minimum franchise tax imposed under Section 23153.

(d) (1) For purposes of subdivision (b), an “S corporation” shall be allowed a deduction under Section 24416 or 24416.1 (relating to net operating loss deductions), but only with respect to losses incurred
during periods in which the corporation is an "S corporation" for purposes of this part.

(2) Section 1371(b) of the Internal Revenue Code, relating to denial of carryovers between "C years" and "S years," shall apply for purposes of the tax imposed under subdivision (b), except as provided in paragraph (1).

(3) The provisions of this subdivision shall not affect the amount of any item of income or loss computed in accordance with the provisions of Section 1366 of the Internal Revenue Code, relating to passthrough items to shareholders.

(4) For purposes of subdivision (b) of Section 17276, relating to limitations on loss carryovers, losses passed through to shareholders of an "S corporation," to the extent otherwise allowable without application of that subdivision, shall be fully included in the net operating loss of that shareholder and then that subdivision shall be applied to the entire net operating loss.

(e) For purposes of computing the taxes specified in subdivision (b), an "S corporation" shall be allowed a deduction from income for built-in gains and passive investment income for which a tax has been imposed under this part in accordance with the provisions of Section 1374 of the Internal Revenue Code, relating to tax imposed on certain built-in gains, or Section 1375 of the Internal Revenue Code, relating to tax imposed on passive investment income.

(f) For purposes of computing taxes imposed under this part, as provided in subdivision (b):

(1) An "S corporation" shall compute its deductions for amortization and depreciation in accordance with the provisions of Part 10 (commencing with Section 17001) of Division 2.

(2) The provisions of Section 465 of the Internal Revenue Code, relating to limitation of deductions to the amount at risk, shall be applied in the same manner as in the case of an individual.

(3) (A) The provisions of Section 469 of the Internal Revenue Code, relating to limitations on passive activity losses and credits, shall be applied in the same manner as in the case of an individual. For purposes of the tax imposed under Section 23151 or 23501, as modified by this section, material participation shall be determined in accordance with Section 469(h) of the Internal Revenue Code, relating to certain closely held "C corporations" and personal service corporations.

(B) For purposes of this paragraph, the "adjusted gross income" of the "S corporation" shall be equal to its "net income," as determined under Section 24341 with the modifications required by this subdivision, except that no deduction shall be allowed for contributions allowed by Section 24357.
(4) The exclusion provided under Section 18152.5 shall not be allowed to an “S corporation.”

(g) The provisions of Section 1363(d) of the Internal Revenue Code, relating to recapture of LIFO benefits, shall be modified for purposes of this part to refer to Section 19101 in lieu of Section 6601 of the Internal Revenue Code.

SEC. 45. Section 23811 of the Revenue and Taxation Code is amended to read:

23811. Except as otherwise provided in this section, there is hereby imposed a tax on passive investment income attributable to California sources, determined in accordance with the provisions of Section 1375 of the Internal Revenue Code, relating to tax imposed on passive investment income, as modified by this section.

(a) The tax imposed under this section shall not be imposed on an “S corporation” that has no excess net passive income for federal income tax purposes determined in accordance with Section 1375 of the Internal Revenue Code.

(b) (1) The rate of tax shall be equal to the rate of tax imposed under Section 23151 in lieu of Section 11(b) of the Internal Revenue Code.

(2) In the case of an “S corporation” which is also a financial corporation, the rate of tax specified in paragraph (1) shall be increased by the excess of the rate imposed under Section 23183 over the rate imposed under Section 23151.

(c) The provisions of Section 1375(c)(1) of the Internal Revenue Code, relating to credits, shall be modified to provide that the tax imposed under subdivision (a) shall not be reduced by any credits allowed under this part.

(d) The term “subchapter C earnings and profits” as used in Sections 1362(d)(3) and 1375 of the Internal Revenue Code shall mean the subchapter C earnings and profits of the corporation attributable to California sources determined under this part, modified as provided in subdivision (e).

(e) (1) In the case of a corporation which is an “S corporation” for purposes of this part for its first taxable year for which it has in effect a valid federal S election, there shall be allowed as a deduction in determining that corporation’s subchapter C earnings and profits at the close of any taxable year the amount of any consent dividend (as provided in paragraph (2)) paid after the close of that taxable year.

(2) In the event there is a determination that a corporation described in paragraph (1) has subchapter C earnings and profits at the close of any taxable year, that corporation shall be entitled to distribute a consent dividend to its shareholders. The amount of the consent dividend shall not exceed the difference between the corporation’s subchapter C earnings and profits determined under subdivision (d) at the close of the
taxable year with respect to which the determination is made and the corporation’s subchapter C earnings and profits for federal income tax purposes at the same date. A consent dividend must be paid within 90 days of the date of the determination that the corporation has subchapter C earnings and profits. For this purpose, the date of a determination means the effective date of a closing agreement pursuant to Section 19441, the date an assessment of tax imposed by this section becomes final, or the date of execution by the corporation of an agreement with the Franchise Tax Board relating to liability for the tax imposed by this section. For purposes of Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), and this part, a corporation must make the election provided in Section 1368(e)(3) of the Internal Revenue Code.

(3) If a corporation distributes a consent dividend, it shall claim the deduction provided in paragraph (1) by filing a claim therefor with the Franchise Tax Board within 120 days of the date of the determination specified in paragraph (2).

(4) The collection of tax imposed by this section from a corporation described in paragraph (2) shall be stayed for 120 days after the date of the determination specified in paragraph (2). If a claim is filed pursuant to paragraph (3), collection of that tax shall be further stayed until the date the claim is acted upon by the Franchise Tax Board.

(5) If a claim is filed pursuant to paragraph (3), the running of the statute of limitations on the making of assessments and actions for collection of the tax imposed by this section shall be suspended for a period of two years after the date of the determination specified in paragraph (2).

SEC. 46. Section 24306 of the Revenue and Taxation Code is amended to read:

24306. (a) For purposes of this section, the following terms have the following meanings, as provided in the Golden State Scholarshare Trust Act (Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code):

(1) “Beneficiary” has the meaning set forth in subdivision (c) of Section 69980 of the Education Code.

(2) “Benefit” has the meaning set forth in subdivision (d) of Section 69980 of the Education Code.

(3) “Participant” has the meaning set forth in subdivision (h) of Section 69980 of the Education Code.

(4) “Participation agreement” has the meaning set forth in subdivision (i) of Section 69980 of the Education Code.

(5) “Scholarshare trust” has the meaning set forth in subdivision (f) of Section 69980 of the Education Code.
(b) Except as otherwise provided in subdivision (c), gross income of a participant shall not include any of the following:

(1) Any earnings under a Scholarshare trust, or a participation agreement, as provided in Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code.

(2) Contributions to the Scholarshare trust on behalf of a beneficiary shall not be includable as gross income of that beneficiary.

(c) (1) Any distribution under a Scholarshare trust participation agreement shall be includable in the gross income of the distributee in the manner as provided under Section 72 of the Internal Revenue Code, as modified by Section 24272.2, to the extent not excluded from gross income under any other provision of this part. For purposes of applying Section 72 of the Internal Revenue Code, the following apply:

(A) All Scholarshare trust accounts of which an individual is a beneficiary shall be treated as one account, except as otherwise provided.

(B) All distributions during a taxable year shall be treated as one distribution.

(C) The value of the participation agreement, income on the participation agreement, and investment in the participation agreement shall be computed as of the close of the calendar year in which the taxable year begins.

(2) A contribution by a for-profit or nonprofit entity, or by a state or local government agency, for the benefit of an owner or employee of that entity or a beneficiary whom the owner or employee has the power to designate, including the owner or employee’s minor children, shall be included in the gross income of that owner or employee in the year the contribution is made.

(3) For purposes of this subdivision, “distribution” includes any benefit furnished to a beneficiary under a participation agreement, as provided in Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code.

(4) (A) Paragraph (1) shall not apply to that portion of any distribution that, within 60 days of distribution, is transferred to the credit of another beneficiary under the Scholarshare trust who is a “member of the family,” as that term is used in Section 529(e)(2) of the Internal Revenue Code, as amended by Section 211 of the Taxpayer Relief Act of 1997 (Public Law 105-34), of the former beneficiary of that Scholarshare trust.

(B) Any change in the beneficiary of an interest in the Scholarshare trust shall not be treated as a distribution for purposes of paragraph (1) if the new beneficiary is a “member of the family,” as that term is used in Section 2032A(e)(2) of the Internal Revenue Code, of the former beneficiary of that Scholarshare trust.
(d) For taxable years beginning on or after January 1, 2002, Sections 529(c) and 529(e) of the Internal Revenue Code, as amended by Section 402 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and Section 417 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147), shall apply in lieu of subdivisions (b) and (c) of this section.

SEC. 47. Section 24307 of the Revenue and Taxation Code is amended to read:

24307. (a) Section 108 of the Internal Revenue Code, relating to income from discharge of indebtedness, shall apply, except as otherwise provided.

(b) Section 108(b)(2)(B) of the Internal Revenue Code, relating to general business credit, is modified by substituting “this part” in lieu of “Section 38 (relating to general business credit).”

(c) Section 108(b)(2)(G) of the Internal Revenue Code, relating to foreign tax credit carryovers, shall not apply.

(d) Section 108(b)(3)(B) of the Internal Revenue Code, relating to credit carryover reduction, is modified by substituting “11.1 cents” in lieu of “33\(\frac{1}{3}\) cents” in each place in which it appears. In the case where more than one credit is allowable under this part, the credits shall be reduced on a pro rata basis.

(e) Section 108(g)(3)(B) of the Internal Revenue Code, relating to adjusted tax attributes, is modified by substituting “$9” in lieu of “$3.”

(f) (1) The amendments to Section 108 of the Internal Revenue Code made by Section 13150 of the Revenue Reconciliation Act of 1993 (Public Law 103-66), relating to exclusion from gross income for income from discharge of qualified real property business indebtedness, shall apply to discharges occurring on or after January 1, 1996, in taxable years beginning on or after January 1, 1996.

(2) If a taxpayer makes an election for federal income tax purposes under Section 108(c) of the Internal Revenue Code, relating to treatment of discharge of qualified real property business indebtedness, a separate election shall not be allowed under paragraph (3) of subdivision (e) of Section 23051.5 and the federal election shall be binding for purposes of this part.

(3) If a taxpayer has not made an election for federal income tax purposes under Section 108(c) of the Internal Revenue Code, relating to treatment of discharge of qualified real property business indebtedness, then the taxpayer shall not be allowed to make that election for purposes of this part.

(g) The amendments to Section 108 of the Internal Revenue Code made by Section 13226 of the Revenue Reconciliation Act of 1993 (Public Law 103-66), relating to modifications of discharge of
indebtedness provisions, shall apply to discharges occurring on or after January 1, 1996, in taxable years beginning on or after January 1, 1996.

(h) The amendments made to Section 108(d)(7)(A) of the Internal Revenue Code, relating to certain provisions to be applied at the corporate level by Section 402 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147), shall apply to discharges of indebtedness after December 31, 2001, in taxable years ending after that date. This subdivision shall not apply to any discharge of indebtedness made before March 1, 2002, pursuant to a plan of reorganization filed with a bankruptcy court on or before October 11, 2001.

SEC. 48. Section 24343.7 of the Revenue and Taxation Code is amended to read:

24343.7. Section 162(k)(2)(A)(ii) of the Internal Revenue Code shall not apply.

SEC. 49. Section 24357 of the Revenue and Taxation Code is amended to read:

24357. (a) There shall be allowed as a deduction any charitable contribution (as defined in Section 24359) payment of which is made within the taxable year. A charitable contribution shall be allowable as a deduction only if verified under regulations prescribed by the Franchise Tax Board.

(b) (1) In the case of a corporation reporting its income on the accrual basis, the corporation may elect to treat the contribution as paid during that taxable year if both of the following occur:

(A) The board of directors authorizes a charitable contribution during the taxable year.

(B) Payment of the contribution is made after the close of that taxable year and on or before the 15th day of the third month following the close of the taxable year.

(2) The election allowed by paragraph (1) may be made only at the time of the filing of the return for the taxable year, and shall be signified in the manner as the Franchise Tax Board shall by regulations prescribe.

(c) For purposes of this section, payment of a charitable contribution that consists of a future interest in tangible personal property shall be treated as made only when all intervening interests in, and rights to the actual possession or enjoyment of, the property have expired or are held by persons other than the taxpayer or those standing in a relationship to the taxpayer described in Section 24428. For purposes of the preceding sentence, a fixture which is intended to be severed from the real property shall be treated as tangible personal property.

(d) No deduction shall be allowed under this section for traveling expenses (including amounts expended for meals and lodging) while away from home, whether paid directly or by reimbursement, unless
there is no significant element of personal pleasure, recreation, or vacation in that travel.

(e) (1) Section 170(f)(8) of the Internal Revenue Code, relating to substantiation requirement for certain contributions, shall apply, except as otherwise provided.

(2) No deduction shall be denied under Section 170(f)(8) of the Internal Revenue Code, relating to substantiation requirement for certain contributions, upon a showing that the requirements in Section 170(f)(8) of the Internal Revenue Code have been met with respect to that contribution for federal purposes.

(f) Section 170(f)(9) of the Internal Revenue Code, relating to the denial of the deduction for lobbying activities shall apply, except as otherwise provided.

SEC. 50. Section 24357.9 of the Revenue and Taxation Code is amended to read:

24357.9. (a) In the case of a qualified computer contribution, the amount otherwise allowed as a deduction under Section 24357 shall be reduced by that amount of the reduction provided by Section 24357.1 that is no greater than the sum of the following:

(1) One-half of the amount computed pursuant to Section 24357.1 (computed without regard to this paragraph).

(2) The amount (if any) by which the charitable contribution deduction under this section for any qualified computer contribution (computed by taking into account the amount determined by paragraph (1), but without regard to this paragraph) exceeds twice the basis of the property.

(b) For purposes of this section, the term “qualified computer contribution” means a charitable contribution by a corporation of any computer technology or equipment, but only if all of the following apply:

(1) The contribution is to either of the following:

(A) An educational organization described in Section 170(b)(1)(A)(ii) of the Internal Revenue Code.

(B) An entity described in Section 23701d and exempt from tax under Section 23701 (other than an entity described in subparagraph (A)) that is organized primarily for purposes of supporting elementary and secondary education in California.

(C) A public library (as described in Section 170(e)(6)(B)(i)(III) of the Internal Revenue Code).

(2) The contribution is made not later than three years after the date the taxpayer acquired the property (or in the case of property constructed by the taxpayer, the date the construction of the property is substantially completed).

(3) The original use of the property is by the donor or the donee.
(4) Substantially all of the use of the property by the donee is for use within California for educational purposes in any of the grades K through 12 that are related to the purpose or function of the organization or entity.

(5) The property is not transferred by the donee in exchange for money, other property, or services, except for shipping, installation, and transfer of costs.

(6) The property will fit productively into the entity’s educational plan.

(7) The entity’s use and disposition of the property will be in accordance with paragraphs (4) and (5).

(8) The property meets the standards, if any, as the Secretary of the Treasury may have prescribed by regulation under Section 170(e)(6) of the Internal Revenue Code to assure that the property meets minimum functionality and suitability standards for educational purposes.

(c) A contribution by a corporation of any computer technology or equipment to a private foundation (as defined in Section 509 of the Internal Revenue Code) shall be treated as a qualified computer contribution for purposes of this section if both of the following apply:

(1) The contribution to the private foundation satisfies the requirements of paragraphs (2) and (5) of subdivision (b).

(2) Within 30 days after that contribution, the private foundation does both of the following:

(A) Contributes the property to an entity described in paragraph (1) of subdivision (b) that satisfies the requirements of paragraphs (4) to (7), inclusive, of subdivision (b).

(B) Notifies the donor of that contribution.

(d) In the case of property that is reacquired by the person who constructed the property, both of the following shall apply:

(1) Paragraph (2) of subdivision (b) shall be applied to a contribution of that property by that person by taking into account the date that the original construction of the property was substantially completed.

(2) Paragraph (3) of subdivision (b) shall not apply to that contribution.

(e) For purposes of this section, property shall be treated as constructed by the taxpayer only if the cost of the parts used in the construction of that property (other than parts manufactured by the taxpayer or a related person) do not exceed 50 percent of the taxpayer’s basis in that property.

(f) For purposes of this section:

(1) “Computer technology or equipment” means computer software (as defined by Section 197(e)(3)(B) of the Internal Revenue Code), computer or peripheral equipment (as defined by Section 168(i)(2)(B)
of the Internal Revenue Code), and fiber-optic cable related to computer use.

(2) “Corporation” shall not include any of the following:
   (A) An “S corporation.”
   (B) A personal holding company (as defined in Section 542 of the Internal Revenue Code).
   (C) A service organization (as defined in Section 414(m)(3) of the Internal Revenue Code).

(g) (1) This section shall not apply to any contribution made during any taxable year beginning on or after January 1, 2000, and before December 31, 2001.

(2) This section shall not apply to any contributions made during any taxable year beginning after December 31, 2003.

SEC. 51. Section 24424 of the Revenue and Taxation Code is repealed.

SEC. 52. Section 24424 is added to the Revenue and Taxation Code, to read:

24424. Section 264 of the Internal Revenue Code, relating to certain amounts paid in connection with insurance contracts, shall apply, except as otherwise provided.

SEC. 53. Section 24443 of the Revenue and Taxation Code is amended to read:

24443. Section 274 of the Internal Revenue Code, relating to the disallowance of certain entertainment, gift, travel, etc., expenses, shall apply, except as otherwise provided.

SEC. 54. Section 24661.3 is added to the Revenue and Taxation Code, to read:

24661.3. (a) (1) The options under Sections 112(d)(2) and 112(d)(3) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. Sec. 7212(d)(2) and (3)), as in effect on October 12, 1998, shall be disregarded in determining the taxable year for which any payment under a production flexibility contract under Subtitle B of Title I of that act (as so in effect) is properly includable in gross income for purposes of this part, Part 10 (commencing with Section 17001), or Part 10.2 (commencing with Section 18401).

(2) In order to provide farmers with the same tax treatment for all payments in years beginning before January 1, 2002, with respect to production flexibility contract payments as provided under federal law as modified by Public Law 105-277, this subdivision shall apply to taxable years ending after December 31, 1995.

(b) Any option to accelerate the receipt of any payment under a production flexibility contract entered into on or after January 1, 2002, that is payable under the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. Sec. 7200 et seq.) as in effect on December 17,
1999, shall be disregarded in determining the taxable year for which that
payment is properly includable in gross income for purposes of this part,
Part 10 (commencing with Section 17001), or Part 10.2 (commencing
with Section 18401).

SEC. 55. Section 24667 of the Revenue and Taxation Code is
amended to read:

24667. (a) (1) Sections 453, 453A, and 453B of the Internal
Revenue Code, relating to installment method, special rules for
nondealers, and gain or loss on disposition of installment obligations,
respectively, shall apply, except as otherwise provided.
(2) Sections 811(c)(4), 811(c)(6), and 811(c)(7) of Public Law
99-514, as modified by Section 1008(f) of Public Law 100-647, shall
apply to each taxable year beginning on or after January 1, 1988.
(3) Section 812 of Public Law 99-514, relating to the disallowance of
use of the installment method for certain obligations, as modified by
Section 1008(g) of Public Law 100-647, shall apply to each taxable year
beginning on or after January 1, 1988.
(b) For purposes of subdivision (a), any references in the Internal
Revenue Code to sections that have not been incorporated into this part
by reference shall be deemed to refer to the corresponding section, if any,
of this part.
(c) In the case of any taxpayer who made sales under a revolving
credit plan and was on the installment method under former Section
24667 or 24668 for the taxpayer’s last taxable year beginning before
January 1, 1988, the provisions of this section shall be treated as a change
in method of accounting for the first taxable year beginning after
December 31, 1987, and all of the following shall apply:
(1) That change shall be treated as initiated by taxpayer.
(2) That change shall be treated as having been made with the consent
of the Franchise Tax Board.
(3) The period for taking into account adjustments under Article 6
(commencing with Section 24721) by reason of that change shall not
exceed four years.
(d) The repeal of Section 453C of the Internal Revenue Code by
Section 10202(a) of Public Law 100-203, relating to repeal of the
proportionate disallowance of the installment method, shall apply to
dispositions on or after January 1, 1990, in taxable years beginning on
or after January 1, 1990.
(e) (1) In the case of any installment obligations to which Section
453(l)(2)(B) of the Internal Revenue Code applies, in lieu of the
provisions of Section 453(l)(3)(A) of the Internal Revenue Code, the
“tax” (as defined by subdivision (a) of Section 23036) for any taxable
year for which payment is received on that obligation shall be increased
(2) Sections 10202 and 10204 of Public Law 100-203, are modified to provide for each of the following:

(A) Section 10202 shall apply to dispositions in taxable years beginning on or after January 1, 1990.

(B) Section 10204 shall apply to costs incurred in taxable years beginning on or after January 1, 1990.

(C) Any adjustments required by Section 481 of the Internal Revenue Code shall be included in gross income as follows:

(i) Fifty percent in the first taxable year beginning on or after January 1, 1990.

(ii) Fifty percent in the second taxable year beginning on or after January 1, 1990.

(f) (1) The amendments to Section 453A of the Internal Revenue Code made by Section 2004 of Public Law 100-647, relating to special rules for nondealers, shall apply to each taxable year beginning on or after January 1, 1990.

(2) In the case of any installment obligation to which Section 453A of the Internal Revenue Code applies and which is outstanding as of the close of the taxable year, in lieu of the provisions of Section 453A(c)(1) of the Internal Revenue Code, the “tax” (as defined by subdivision (a) of Section 23036) for the taxable year shall be increased by the amount of interest determined in the manner provided under Section 453A(c)(2) of the Internal Revenue Code.

(3) The provisions of Section 453A(c)(3)(B) of the Internal Revenue Code, relating to the maximum rate used in calculating the deferred tax liability, are modified to refer to the maximum rate of tax imposed under Section 23151, 23186, or 23802, whichever applies, in lieu of the maximum rate of tax imposed under Section 1 or 11 of the Internal Revenue Code.

(g) (1) The last sentence of Section 453A(d)(4) of the Internal Revenue Code, relating to secured indebtedness, shall not apply.

(2) This subdivision shall apply to sales or other dispositions occurring on or after January 1, 2002.

SEC. 56. Section 24685.5 is added to the Revenue and Taxation Code, to read:

24685.5. (a) The amendment made by Section 7001(a) of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206) to Section 404(a)(11) of the Internal Revenue Code, regarding determinations relating to deferred compensation, shall apply to taxable years beginning on or after January 1, 2002.

(b) In the case of any taxpayer required by enactment of this section to change its method of accounting, for that taxpayer’s first taxable year
beginning on or after January 1, 2002, each of the following shall apply for purposes of this part, Part 10 (commencing with Section 17001), and Part 10.2 (commencing with Section 18401):

(1) The change shall be treated as initiated by the taxpayer.

(2) The change shall be treated as made with the consent of the Franchise Tax Board.

(3) The net amount of the adjustments required to be taken into account by the taxpayer under Chapter 13 (commencing with Section 24631) shall be taken into account ratably over the three-taxable-year period beginning with that taxpayer’s first taxable year beginning on or after January 1, 2002.

SEC. 57. Section 24710 of the Revenue and Taxation Code is amended to read:

24710. (a) For each taxable year beginning on or after January 1, 1997, Section 475 of the Internal Revenue Code, relating to mark to market accounting method for securities dealers, shall apply, except as otherwise provided.

(b) Section 13233(c)(2)(C) of the Revenue Reconciliation Act of 1993 (Public Law 103-66), relating to the effective date for changes in the mark to market accounting method for securities dealers, is modified to provide that the amount taken into account under Section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the five-taxable-year period beginning with the first taxable year beginning on or after January 1, 1997.

(c) (1) If a taxpayer has, at any time, made an election for federal purposes under Section 475(e) of the Internal Revenue Code, relating to election of mark to market for dealers in commodities, to have Section 475 of the Internal Revenue Code apply, Section 475 of the Internal Revenue Code shall apply to that dealer in commodities for state purposes, a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 23051.5, and the federal election shall be binding for purposes of this part.

(2) If a taxpayer fails to make, or has not previously made, an election for federal purposes under Section 475(e) of the Internal Revenue Code, relating to election of mark to market for dealers in commodities, to have Section 475 of the Internal Revenue Code apply, an election under Section 475(e) of the Internal Revenue Code shall not be allowed for state purposes, Section 475 of the Internal Revenue Code shall not apply to that dealer in commodities for state purposes, and a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 23051.5.

(d) (1) If a taxpayer has, at any time, made an election for federal purposes under Section 475(f)(1) of the Internal Revenue Code, relating to election of mark to market for traders in securities, to have Section 475
of the Internal Revenue Code apply to a trade or business, Section 475 of the Internal Revenue Code shall apply to that trader in securities for state purposes with respect to that trade or business, a separate election for state purposes with respect to that trade or business shall not be allowed under paragraph (3) of subdivision (e) of Section 23051.5, and the federal election shall be binding for purposes of this part.

(2) If a taxpayer fails to make, or has not previously made, an election for federal purposes under Section 475(f)(1) of the Internal Revenue Code, relating to election of mark to market for traders in securities, to have Section 475 of the Internal Revenue Code apply to a trade or business, an election under Section 475(f)(1) of the Internal Revenue Code shall not be allowed for state purposes with respect to that trade or business, Section 475 of the Internal Revenue Code shall not apply to that trader in securities for state purposes with respect to that trade or business, and a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 23051.5.

(e) (1) If a taxpayer has, at any time, made an election for federal purposes under Section 475(f)(2) of the Internal Revenue Code, relating to election of mark to market for traders in commodities, to have Section 475 of the Internal Revenue Code apply to a trade or business, Section 475 of the Internal Revenue Code shall apply to that trader in commodities for state purposes with respect to that trade or business, a separate election for state purposes with respect to that trade or business shall not be allowed under paragraph (3) of subdivision (e) of Section 23051.5, and the federal election with respect to that trade or business shall be binding for purposes of this part.

(2) If a taxpayer fails to make, or has not previously made, an election for federal purposes under Section 475(f)(2) of the Internal Revenue Code, relating to election of mark to market for traders in commodities, to have Section 475 of the Internal Revenue Code apply to a trade or business, an election under Section 475(f)(2) of the Internal Revenue Code shall not be allowed for state purposes with respect to that trade or business, Section 475 of the Internal Revenue Code shall not apply to that trader in commodities for state purposes with respect to that trade or business, and a separate election for state purposes with respect to that trade or business shall not be allowed under paragraph (3) of subdivision (e) of Section 23051.5.

(f) (1) An election under Section 475(e) or (f) of the Internal Revenue Code made for federal purposes with respect to a taxable year beginning before January 1, 1998, shall be treated as having been made for state purposes with respect to the first taxable year beginning on or after January 1, 1998.

(2) Section 1001(d)(4)(B) of the Taxpayer Relief Act of 1997 (Public Law 105-34), relating to the effective date for election of mark to market
by securities traders and traders and dealers in commodities, is modified to provide that the requirement for timely identification shall be treated as timely made for state purposes if that identification is treated as timely made for federal purposes, and the amount taken into account under Section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the four-taxable-year period beginning with the first taxable year beginning on or after January 1, 1998.

(g) In the case of any taxpayer required to change its method of accounting by the enactment of the act amending this subdivision, incorporating by reference to the amendments made by Section 7003 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206) to Section 475 of the Internal Revenue Code, each of the following shall apply for purposes of this part, Part 10 (commencing with Section 17001), or Part 10.2 (commencing with Section 18401):

1. The change shall be treated as initiated by the taxpayer.

2. The change shall be treated as made with the consent of the Franchise Tax Board.

3. The taxpayer shall not be required to change its method of accounting until the first taxable year beginning on or after January 1, 2002.

4. The net amount of the adjustments required to be taken into account by the taxpayer under Chapter 13 (commencing with Section 24631) shall be taken into account ratably over the three-taxable-year period beginning with that taxpayer’s first taxable year beginning on or after January 1, 2002.

SEC. 58. Section 24942 of the Revenue and Taxation Code is amended to read:

24942. (a) No gain or loss shall be recognized to a corporation on the receipt of money or other property in exchange for stock (including treasury stock) of that corporation. No gain or loss shall be recognized by a corporation with respect to any lapse or acquisition of an option, or with respect to a securities futures contract (as defined in Section 1234B of the Internal Revenue Code, to buy or sell its stock (including treasury stock).

(b) For basis of property acquired by a corporation in certain exchanges for its stock, see Sections 24552 to 24554, inclusive.

SEC. 59. Section 24949.1 of the Revenue and Taxation Code, as amended by Section 98 of Chapter 322 of the Statutes of 1998, is repealed.

SEC. 60. Section 24949.1 of the Revenue and Taxation Code, as added by Chapter 846 of the Statutes of 1961, is amended to read:

24949.1. For purposes of this part, the sale or exchange of livestock (other than poultry) held by a taxpayer for draft, breeding, or dairy
purposes in excess of the number the taxpayer would sell if he or she followed his or her usual business practices shall be treated as an involuntary conversion to which Sections 24943 to 24949, inclusive, apply if the livestock are sold or exchanged by the taxpayer solely on account of drought, flood, or other weather-related conditions.

SEC. 61. In order to provide employers and employees with the same tax treatment for all years with respect to meals or lodging furnished for the convenience of the employer as under federal law, amendments made by the enactment of this act, which incorporates by reference the amendments made by Section 5002 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206) to Section 119 of the Internal Revenue Code, shall apply to taxable years beginning before, on, or after July 22, 1998.

SEC. 62. Sections 6001 to 6024, inclusive, of the Internal Revenue Service Restructuring and Reform Act of 1998 (Title VI of Public Law 105-206), Sections 4001 to 4006, inclusive, of the Tax and Trade Relief Extension Act of 1998 (Title IV of Division J of Public Law 105-277), Sections 311 to 319, inclusive, of the Consolidated Appropriations Act, 2001 (Subtitle B of Title III of Public Law 106-554), and Sections 412 to 417, inclusive, of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147) enacted numerous technical corrections to provisions of the Internal Revenue Code, including technical corrections relating to the Consolidated Appropriations Act, 2001 (Public Law 106-554), the Tax Relief Extension Act of 1999 (Public Law 106-170), the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170), the Tax and Trade Relief Extension Act of 1998 (Public Law 105-277), the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206), the Balanced Budget Act of 1997 (Public Law 105-33), the Taxpayer Relief Act of 1997 (Public Law 105-33), the Small Business Job Protection Act of 1996 (Public Law 104-188), the Uruguay Round Agreements Act (Public Law 103-465), the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66), the Revenue Reconciliation Act of 1990 (Public Law 101-508), the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100-647), the Tax Reform Act of 1986 (Public Law 99-514), and the Tax Reform Act of 1984 (Public Law 98-369), some of which are incorporated by specific reference into Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), and Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code. Unless otherwise specifically provided, the technical corrections described in the preceding sentence, to the extent that they correct provisions that are incorporated by specific reference into the Revenue and Taxation Code, are declaratory of existing law and shall be applied in the same manner and for the same periods as specified in the
Internal Revenue Service Restructuring and Reform Act of 1998 (Title VI of Public Law 105-206), the Tax and Trade Relief Extension Act of 1998 (Title IV of Division J of Public Law 105-277), the Consolidated Appropriations Act, 2001 (Subtitle B of Title III of Public Law 106-554), and the Job Creation and Worker Assistance Act of 2002 (Subtitle B of Title IV of Public Law 107-147) or if later, the specified date of incorporation.

SEC. 63. The amendments made to Section 17731.5 by this act are declaratory of existing law and shall be applied in the same manner and for the same taxable years as the amendments made by Section 6007(f)(2) of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206), unless those amendments specifically apply for federal purposes to a date prior to the specified date of incorporation, in which case they shall apply as of the specified date of incorporation.

SEC. 64. The amendments made to Section 17751 by this act are declaratory of existing law and shall be applied in the same manner and for the same taxable years as the amendments made by Section 6013(a) of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206), unless those amendments specifically apply for federal purposes to a date prior to the specified date of incorporation, in which case they shall apply as of the specified date of incorporation.

SEC. 65. The amendments made to Section 18038.5 by this act are declaratory of existing law and shall be applied in the same manner and for the same taxable years as the amendments made by Section 6005(f) of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206), unless those amendments specifically apply for federal purposes to a date prior to the specified date of incorporation, in which case they shall apply as of the specified date of incorporation.

SEC. 66. Amendments made by the enactment of this act, which incorporate by reference the amendments made by Section 3001 of the Tax and Trade Relief Extension Act of 1998 (Public Law 105-277) to Sections 332 and 334 of the Internal Revenue Code, shall apply to distributions made on or after January 1, 2002.

SEC. 67. In order to provide the same tax treatment for all years with respect to the tax treatment of a cash option for qualified prizes as under federal law, as modified by Public Law 105-277:

(a) Amendments made by the enactment of this act, which incorporates by reference the amendments made by Section 5301 of the Tax and Trade Relief Extension Act of 1998 (Public Law 105-277) to Section 451 of the Internal Revenue Code, shall apply to any prize to which a person first becomes entitled after October 21, 1998.

(b) Amendments made by the enactment of this act, which incorporates by reference the amendments made by Section 5301 of the
Tax and Trade Relief Extension Act of 1998 (Public Law 105-277) to Section 451 of the Internal Revenue Code, shall apply to any prize to which a person first becomes entitled on or before October 21, 1998, except that in determining whether an option is a qualified prize option as defined in Section 451(h)(2)(A) of the Internal Revenue Code:

(1) Section 451(h)(2)(A)(ii) of the Internal Revenue Code shall not apply.

(2) That option shall be treated as a qualified prize option if it is exercisable only during all or part of the 18-month period beginning on July 1, 1999.

SEC. 68. Amendments made by the enactment of this act, which incorporate by reference the amendments made by Section 3001 of the Miscellaneous Trade and Technical Corrections Act of 1999 (Public Law 106-36) to Sections 351, 357, 358, 362, 368, 584, and 1031 of the Internal Revenue Code, shall apply to transfers made on or after January 1, 2002.

SEC. 69. Section 502(d) of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170), relating to special rules delaying the claiming of the research credit, shall not apply.

SEC. 70. Amendments made by the enactment of this act, which incorporate by reference the amendments made by Section 532 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170), shall apply to any instrument held, acquired, or entered into, any transaction entered into, and supplies held or acquired, on or after January 1, 2002.

SEC. 71. Amendments made by the enactment of this act, which incorporate by reference the amendments made by Section 534 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170), which added Section 1260 of the Internal Revenue Code to Subchapter P of Chapter 1 of the Internal Revenue Code, shall apply to transactions entered into on or after January 1, 2002.

SEC. 72. Amendments made by the enactment of this act, which incorporate by reference the amendments made by Section 537 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170) to Section 170 of the Internal Revenue Code, shall apply to transfers made on or after January 1, 2002.

SEC. 73. In order to provide the same tax treatment under Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), and Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code, with respect to distributions by a partnership to a corporate partner, each of the following shall apply:

(a) Except as provided in subdivision (b), amendments made by the enactment of this act, which incorporate by reference the amendments made by Section 538 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170) to Section 2301 of the Internal Revenue Code, shall apply to transfers made on or after January 1, 2002.
Improvement Act of 1999 (Public Law 106-170) to Section 732 of the Internal Revenue Code, shall apply to distributions made on or after January 1, 2002.

(b) (1) In the case of a corporation which is a partner in a partnership as of January 1, 2002, the amendment made by Section 538 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170) to Section 732 of the Internal Revenue Code, shall apply to any distribution made (or treated as made) to that partner from that partnership after June 30, 2002.

(2) (A) Paragraph (1) shall not apply to any distribution unless the partner has made the election under Section 538(b)(2) of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170) to have Section 538(b)(2) of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170) apply for federal purposes to that distribution on the partner’s return of federal income tax for the taxable year in which the distribution occurs.

(B) For purposes of subparagraph (A) of this paragraph, no separate election shall be allowed under paragraph (3) of subdivision (e) of Section 17024.5 or paragraph (3) of subdivision (e) of Section 23051.5.

SEC. 74. Amendments made by the enactment of this act to Section 24357.9 shall apply to a qualified computer contribution made on or after January 1, 2002.

SEC. 75. In order to provide the same tax treatment under Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), and Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code, with respect to the sale or exchange of livestock sold or exchanged solely on account of flood or other weather-related conditions, the amendments made to Section 24949.1 of the Revenue and Taxation Code, as added by Chapter 846 of the Statutes of 1961, shall apply to taxable years beginning on or after January 1, 1999.

SEC. 76. If a corporation that had in effect a valid federal election to be treated as an “S” corporation for federal purposes and a valid state election to be a “C” corporation for state purposes for taxable years beginning before January 1, 2002, is an “S” corporation pursuant to Section 23801 as amended by this act, the effective date of the election to be treated as an “S” corporation for state purposes shall be January 1, 2002.

SEC. 77. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. Sections 17085, 17140, 17140.3, 17144.5, 17205, 17501, 17551, 23701s, 23705, 23711, 23712, and 24306 of the Revenue and Taxation Code, as amended or added by this act, conform, in whole or in part, to the changes made by the Economic Growth and Tax Relief
Reconciliation Act of 2001 (Public Law 107-16) and Subtitle IV of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147), to the Internal Revenue Code and shall be operative with respect to the same period, as the federal law provision to which it conforms.

SEC. 78. This act shall become operative only if Assembly Bill 1122 of the 2001–02 Regular Session is chaptered.

CHAPTER 35

An act to amend Sections 17024.5, 17039, 17052.12, 17062, 17063, 17085, 17140, 17140.3, 17144, 17275.5, 17501, 17551, 17560, 17570, 17731.5, 17751, 18038.5, 19136, 19141, 19365, 19521, 23038.5, 23456, 23457, 23609, 23701s, 23705, 23711, 23712, 23801, 23802, 23811, 24306, 24307, 24343.7, 24357, 24357.9, 24443, 24667, 24710, and 24942 of, to add Sections 17062.3, 17132, 17132.6, 17144.5, 17205, 17552.3, 17563.5, 19136.8, 23456.5, 24661.3, and 24685.5 to, to repeal Sections 17251.5, 17270.5, 17271, and 17279.5 of, to repeal and amend Section 24949.1 of, and to repeal and add Section 24424 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor May 8, 2002. Filed with Secretary of State May 8, 2002.]

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

SECTION 1. Section 17024.5 of the Revenue and Taxation Code is amended to read:

17024.5. (a) (1) Unless otherwise specifically provided, the terms “Internal Revenue Code,” “Internal Revenue Code of 1954,” or “Internal Revenue Code of 1986,” for purposes of this part, mean Title 26 of the United States Code, including all amendments thereto as enacted on the specified date for the applicable taxable year as follows:

<table>
<thead>
<tr>
<th>Taxable Year</th>
<th>Specified Date of Internal Revenue Code Sections</th>
</tr>
</thead>
<tbody>
<tr>
<td>(A) For taxable years beginning on or after January 1, 1983, and on or before December 31, 1983 . . . .</td>
<td>January 15, 1983</td>
</tr>
<tr>
<td>(B) For taxable years beginning on or after January 1, 1984, and on or before December 31, 1984 . . . .</td>
<td>January 1, 1984</td>
</tr>
<tr>
<td>(C) For taxable years beginning on or after January 1, 1985, and on or before December 31, 1985 . . . .</td>
<td>January 1, 1985</td>
</tr>
</tbody>
</table>
(D) For taxable years beginning on or after January 1, 1986, and on or before December 31, 1986 . . . . January 1, 1986

(E) For taxable years beginning on or after January 1, 1987, and on or before December 31, 1988 . . . . January 1, 1987

(F) For taxable years beginning on or after January 1, 1989, and on or before December 31, 1989 . . . . January 1, 1989

(G) For taxable years beginning on or after January 1, 1990, and on or before December 31, 1990 . . . . January 1, 1990

(H) For taxable years beginning on or after January 1, 1991, and on or before December 31, 1991 . . . . January 1, 1991

(I) For taxable years beginning on or after January 1, 1992, and on or before December 31, 1992 . . . . January 1, 1992

(J) For taxable years beginning on or after January 1, 1993, and on or before December 31, 1996 . . . . January 1, 1993

(K) For taxable years beginning on or after January 1, 1997, and on or before December 31, 1997 . . . . January 1, 1997

(L) For taxable years beginning on or after January 1, 1998, and on or before December 31, 2001 . . . . January 1, 1998

(M) For taxable years beginning on or after January 1, 2002 . . . . . . . . . . . . . . . . . . . . . . . . . . . . . January 1, 2001

(2) Unless otherwise specifically provided, for federal laws enacted on or after January 1, 1987, and on or before the specified date for the taxable year, uncodified provisions that relate to provisions of the Internal Revenue Code that are incorporated for purposes of this part shall be applicable to the same taxable years as the incorporated provisions.

(3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle H (Repeal of Expired or Obsolete Provisions) of the Revenue Reconciliation Act of 1990 (Public Law 101-508) modified numerous provisions of the Internal Revenue Code and provisions of prior federal acts, some of which are incorporated by reference into this part. Unless otherwise provided, the provisions described in the preceding sentence, to the extent that they modify provisions that are incorporated into this part, are declaratory of existing law and shall be applied in the same manner and for the same periods as specified in the Revenue Reconciliation Act of 1990.

(b) Unless otherwise specifically provided, when applying any provision of the Internal Revenue Code for purposes of this part, a reference to any of the following shall not be applicable for purposes of this part:

(1) Except as provided in Chapter 4.5 (commencing with Section 23800) of Part 11 of Division 2, an electing small business corporation, as defined in Section 1361(b) of the Internal Revenue Code.
(2) Domestic international sales corporations (DISC), as defined in Section 992(a) of the Internal Revenue Code.
(3) A personal holding company, as defined in Section 542 of the Internal Revenue Code.
(4) A foreign personal holding company, as defined in Section 552 of the Internal Revenue Code.
(5) A foreign investment company, as defined in Section 1246(b) of the Internal Revenue Code.
(6) A foreign trust, as defined in Section 679 of the Internal Revenue Code.
(7) Foreign income taxes and foreign income tax credits.
(8) Section 911 of the Internal Revenue Code, relating to United States citizens living abroad.
(9) A foreign corporation, except that Section 367 of the Internal Revenue Code shall be applicable.
(10) Federal tax credits and carryovers of federal tax credits.
(11) Nonresident aliens.
(12) Deduction for personal exemptions, as provided in Section 151 of the Internal Revenue Code.
(13) The tax on generation-skipping transfers imposed by Section 2601 of the Internal Revenue Code.
(14) The tax, relating to estates, imposed by Section 2001 or 2101 of the Internal Revenue Code.
(c) (1) The provisions contained in Sections 41 to 44, inclusive, and 172 of the Tax Reform Act of 1984 (Public Law 98-369), relating to treatment of debt instruments, shall not be applicable for taxable years beginning before January 1, 1987.
(2) The provisions contained in Public Law 99-121, relating to the treatment of debt instruments, shall not be applicable for taxable years beginning before January 1, 1987.
(3) For each taxable year beginning on or after January 1, 1987, the provisions referred to by paragraphs (1) and (2) shall be applicable for purposes of this part in the same manner and with respect to the same obligations as the federal provisions, except as otherwise provided in this part.
(d) When applying the Internal Revenue Code for purposes of this part, regulations promulgated in final form or issued as temporary regulations by “the secretary” shall be applicable as regulations under this part to the extent that they do not conflict with this part or with regulations issued by the Franchise Tax Board.
(e) Whenever this part allows a taxpayer to make an election, the following rules shall apply:
(1) A proper election filed with the Internal Revenue Service in accordance with the Internal Revenue Code or regulations issued by “the
secretary” shall be deemed to be a proper election for purposes of this part, unless otherwise provided in this part or in regulations issued by the Franchise Tax Board.

(2) A copy of that election shall be furnished to the Franchise Tax Board upon request.

(3) To obtain treatment other than that elected for federal purposes, a separate election shall be filed at the time and in the manner required by the Franchise Tax Board.

(f) Whenever this part allows or requires a taxpayer to file an application or seek consent, the rules set forth in subdivision (e) shall be applicable with respect to that application or consent.

(g) When applying the Internal Revenue Code for purposes of determining the statute of limitations under this part, any reference to a period of three years shall be modified to read four years for purposes of this part.

(h) When applying, for purposes of this part, any section of the Internal Revenue Code or any applicable regulation thereunder, all of the following shall apply:

(1) References to “adjusted gross income” shall mean the amount computed in accordance with Section 17072, except as provided in paragraph (2).

(2) References to “adjusted gross income” for purposes of computing limitations based upon adjusted gross income, shall mean the amount required to be shown as adjusted gross income on the federal tax return for the same taxable year.

(3) Any reference to “subtitle” or “chapter” shall mean this part.

(4) The provisions of Section 7806 of the Internal Revenue Code, relating to construction of title, shall apply.

(5) Any provision of the Internal Revenue Code that becomes operative on or after the specified date for that taxable year shall become operative on the same date for purposes of this part.

(6) Any provision of the Internal Revenue Code that becomes inoperative on or after the specified date for that taxable year shall become inoperative on the same date for purposes of this part.

(7) Due account shall be made for differences in federal and state terminology, effective dates, substitution of “Franchise Tax Board” for “secretary” when appropriate, and other obvious differences.

(i) Any reference to a specific provision of the Internal Revenue Code shall include modifications of that provision, if any, in this part.

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

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

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

(2) Credits that contain carryover provisions but do not contain
refundable provisions, except for those that are allowed to reduce “net
tax” below the tentative minimum tax, as defined by Section 17062.

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

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

(5) Credits that are allowed to reduce “net tax” below the tentative
minimum tax, as defined by Section 17062.

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

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

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

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

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

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

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

(C) The credit allowed by former Section 17052.5 (relating to solar
energy, repealed on January 1, 1987).

(D) The credit allowed by former Section 17052.5 (relating to solar
energy, repealed on December 1, 1994).

(E) The credit allowed by Section 17052.12 (relating to research
expenses).
(F) The credit allowed by former Section 17052.13 (relating to sales and use tax credit).

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

(H) The credit allowed by Section 17052.25 (relating to the adoption costs credit).

(I) The credit allowed by Section 17053.5 (relating to the renter’s credit).

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

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

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

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

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

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

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

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

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

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

(T) The credit allowed by Section 17054.5 (relating to the credits for a qualified joint custody head of household and a qualified taxpayer with a dependent parent).

(U) The credit allowed by Section 17054.7 (relating to the credit for a senior head of household).

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

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

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

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

(Z) The credit allowed by Section 19002 (relating to tax withholding).
(2) Any credit that is partially or totally denied under paragraph (1) shall be allowed to be carried over and applied to the net tax in succeeding taxable years, if the provisions relating to that credit include a provision to allow a carryover when that credit exceeds the net tax.

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

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

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

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

(f) Unless otherwise provided, in the case of a partnership, any credit allowed by this part shall be computed at the partnership level, and any limitation on the expenses qualifying for the credit or limitation upon the amount of the credit shall be applied to the partnership and to each partner.

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

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

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

(h) (1) Unless otherwise specifically provided, in the case of a taxpayer that is a partner or shareholder of an eligible pass-through entity described in paragraph (2), any credit passed through to the taxpayer in the taxpayer’s first taxable year beginning on or after the date the credit is no longer operative may be claimed by the taxpayer in that taxable year, notwithstanding the repeal of the statute authorizing the credit prior to the close of that taxable year.

(2) For purposes of this subdivision, “eligible pass-through entity” means any partnership or S corporation that files its return on a fiscal year basis pursuant to Section 18566, and that is entitled to a credit pursuant to this part for the taxable year that begins during the last year the credit is operative.

(3) This subdivision shall apply to credits that become inoperative on or after the operative date of the act adding this subdivision.

SEC. 3. Section 17052.12 of the Revenue and Taxation Code is amended to read:

17052.12. For each taxable year beginning on or after January 1, 1987, there shall be allowed as a credit against the “net tax” (as defined by Section 17039) for the taxable year an amount determined in accordance with Section 41 of the Internal Revenue Code, except as follows:

(a) For each taxable year beginning before January 1, 1997, the reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “8 percent.”

(b) (1) For each taxable year beginning on or after January 1, 1997, and before January 1, 1999, the reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “11 percent.”

(2) For each taxable year beginning on or after January 1, 1999, and before January 1, 2000, the reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “12 percent.”

(3) For each taxable year beginning on or after January 1, 2000, the reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “15 percent.”

(c) Section 41(a)(2) of the Internal Revenue Code, relating to basic research payments, shall not apply.

(d) “Qualified research” shall include only research conducted in California.
(e) In the case where the credit allowed under this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” in the following year, and succeeding years if necessary, until the credit has been exhausted.

(f) (1) With respect to any expense paid or incurred after the operative date of Section 6378, Section 41(b)(1) of the Internal Revenue Code is modified to exclude from the definition of “qualified research expense” any amount paid or incurred for tangible personal property that is eligible for the exemption from sales or use tax provided by Section 6378.

(2) For each taxable year beginning on or after January 1, 1998, the reference to “Section 501(a)” in Section 41(b)(3)(C) of the Internal Revenue Code, relating to contract research expenses, is modified to read “this part or Part 11 (commencing with Section 23001).”

(g) (1) For each taxable year beginning on or after January 1, 2000:
(A) The reference to “2.65 percent” in Section 41(c)(4)(A)(i) of the Internal Revenue Code is modified to read “one and forty-nine hundredths of one percent.”
(B) The reference to “3.2 percent” in Section 41(c)(4)(A)(ii) of the Internal Revenue Code is modified to read “one and ninety-eight hundredths of one percent.”
(C) The reference to “3.75 percent” in Section 41(c)(4)(A)(iii) of the Internal Revenue Code is modified to read “two and forty-eight hundredths of one percent.”

(2) Section 41(c)(4)(B) shall not apply and in lieu thereof an election under Section 41(c)(4)(A) of the Internal Revenue Code may be made for any taxable year of the taxpayer beginning on or after January 1, 1998. That election shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Franchise Tax Board.

(3) Section 41(c)(6) of the Internal Revenue Code, relating to gross receipts, is modified to take into account only those gross receipts from the sale of property held primarily for sale to customers in the ordinary course of the taxpayer’s trade or business that is delivered or shipped to a purchaser within this state, regardless of f.o.b. point or any other condition of the sale.

(h) Section 41(h) of the Internal Revenue Code, relating to termination, shall not apply.

(i) Section 41(g) of the Internal Revenue Code, relating to special rule for passthrough of credit, is modified by each of the following:
(1) The last sentence shall not apply.
(2) If the amount determined under Section 41(a) of the Internal Revenue Code for any taxable year exceeds the limitation of Section 41(g) of the Internal Revenue Code, that amount may be carried over to
other taxable years under the rules of subdivision (e); except that the limitation of Section 41(g) of the Internal Revenue Code shall be taken into account in each subsequent taxable year.

SEC. 4. Section 17062 of the Revenue and Taxation Code is amended to read:

17062. (a) In addition to the other taxes imposed by this part, there is hereby imposed for each taxable year, a tax equal to the excess, if any, of—

(1) The tentative minimum tax for the taxable year, over
(2) The regular tax for the taxable year.

(b) For purposes of this chapter, each of the following shall apply:

(1) The tentative minimum tax shall be computed in accordance with Sections 55 to 59, inclusive, of the Internal Revenue Code, except as otherwise provided in this part.

(2) The regular tax shall be the amount of tax imposed by Section 17041 or 17048, before reduction for any credits against the tax, less any amount imposed under paragraph (1) of subdivision (d) and paragraph (1) of subdivision (e) of Section 17560.

(3) (A) The provisions of Section 55(b)(1) of the Internal Revenue Code shall be modified to provide that the tentative minimum tax for the taxable year shall be equal to the following percent of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, before reduction for any credits against the tax:

(i) For any taxable year beginning on or after January 1, 1991, and before January 1, 1996, 8.5 percent.
(ii) For any taxable year beginning on or after January 1, 1996, 7 percent.

(B) In the case of a nonresident or part-year resident, the tentative minimum tax shall be computed by multiplying the alternative minimum taxable income of the nonresident or part-year resident, as defined in subparagraph (C), by a rate (expressed as a percentage) equal to the tax computed under subdivision (b) on the alternative minimum taxable income of the nonresident or part-year resident as if the nonresident or part-year resident were a resident of this state for the taxable year and as if the nonresident or part-year resident were a resident of this state for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions, divided by the amount of that income.

(C) For purposes of this section, the term “alternative minimum taxable income of a nonresident or part-year resident” includes each of the following:

(i) For any period during which the taxpayer was a resident of this state (as defined by Section 17014), all items of alternative minimum
taxable income (as modified for purposes of this chapter), regardless of source.

(ii) For any period during which the taxpayer was not a resident of this state, alternative minimum taxable income (as modified for purposes of this chapter) which were derived from sources within this state, determined in accordance with Article 9 of Chapter 3 (commencing with Section 17301) and Chapter 11 (commencing with Section 17951).

(iii) For purposes of computing “alternative minimum taxable income of a nonresident or part-year resident,” any carryover items, deferred income, suspended losses, or suspended deductions shall only be allowable to the extent that the carryover item, suspended loss, or suspended deduction was derived from sources within this state.

(4) The provisions of Section 55(b)(2) of the Internal Revenue Code, relating to alternative minimum taxable income, shall be modified to provide that alternative minimum taxable income shall not include the income, adjustments, and items of tax preference attributable to any trade or business of a qualified taxpayer.

(A) For purposes of this paragraph, “qualified taxpayer” means a taxpayer who meets both of the following:

(i) Is the owner of, or has an ownership interest in, a trade or business.

(ii) Has aggregate gross receipts, less returns and allowances, of less than one million dollars ($1,000,000) during the taxable year from all trades or businesses of which the taxpayer is the owner or has an ownership interest, in the amount of that taxpayer’s proportionate interest in each trade or business.

(B) For purposes of this paragraph, “aggregate gross receipts, less returns and allowances” means the sum of the gross receipts of the trades or businesses that the taxpayer owns and the proportionate interest of the gross receipts of the trades or businesses that the taxpayer owns and of passthrough entities in which the taxpayer holds an interest.

(C) For purposes of this paragraph, “gross receipts, less returns and allowances” means the sum of the gross receipts from the production of business income, as defined in subdivision (a) of Section 25120, and the gross receipts from the production of nonbusiness income, as defined in subdivision (d) of Section 25120.

(D) For purposes of this paragraph, “proportionate interest” means:

(i) In the case of a passthrough entity that reports a profit for the taxable year, the taxpayer’s profit interest in the entity at the end of the taxpayer’s taxable year.

(ii) In the case of a passthrough entity that reports a loss for the taxable year, the taxpayer’s loss interest in the entity at the end of the taxpayer’s taxable year.
(iii) In the case of a passthrough entity that is sold or liquidates during the taxable year, the taxpayer’s capital account interest in the entity at the time of the sale or liquidation.

(E) (i) For purposes of this paragraph, “proportionate interest” includes an interest in a passthrough entity.

(ii) For purposes of this paragraph, “passthrough entity” means any of the following:

(I) A partnership, as defined by Section 17008.

(II) An S corporation, as provided in Chapter 4.5 (commencing with Section 23800) of Part 11.

(III) A regulated investment company, as provided in Section 24871.

(IV) A real estate investment trust, as provided in Section 24872.

(V) A real estate mortgage investment conduit, as provided in Section 24874.

(5) For taxable years beginning on or after January 1, 1998, Section 55(d)(1) of the Internal Revenue Code, relating to exemption amount for taxpayers other than corporations is modified, for purposes of this part, to provide the following exemption amounts in lieu of those contained therein:

(A) Fifty-seven thousand two hundred sixty dollars ($57,260) in the case of either of the following:

(i) A joint return.

(ii) A surviving spouse.

(B) Forty-two thousand nine hundred forty-five dollars ($42,945) in the case of an individual who is both of the following:

(i) Not a married individual.

(ii) Not a surviving spouse.

(C) Twenty-eight thousand six hundred thirty dollars ($28,630) in the case of either of the following:

(i) A married individual who files a separate return.

(ii) An estate or trust.

(6) For taxable years beginning on or after January 1, 1998, Section 55(d)(3) of the Internal Revenue Code, relating to the phaseout of exemption amount for taxpayers other than corporations is modified, for purposes of this part, to provide the following phaseout of exemption amounts in lieu of those contained therein:

(A) Two hundred fourteen thousand seven hundred twenty-five dollars ($214,725) in the case of a taxpayer described in subparagraph (A) of paragraph (5).

(B) One hundred sixty-one thousand forty-four dollars ($161,044) in the case of a taxpayer described in subparagraph (B) of paragraph (5).

(C) One hundred seven thousand three hundred sixty-two dollars ($107,362) in the case of a taxpayer described in subparagraph (C) of paragraph (5).
(7) For each taxable year beginning on or after January 1, 1999, the Franchise Tax Board shall recompute the exemption amounts prescribed in paragraph (5) and the phaseout of exemption amounts prescribed in paragraph (6). Those computations shall be made as follows:

(A) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(B) The Franchise Tax Board shall do both of the following:

(i) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to subparagraph (A) and dividing the result by 100.

(ii) Multiply the preceding taxable year exemption amounts and the phaseout of exemption amounts by the inflation adjustment factor determined in clause (i) and round off the resulting products to the nearest one dollar ($1).

(c) (1) (A) Section 56(a)(6) of the Internal Revenue Code as in effect on January 1, 1997, relating to installment sales of certain property, shall not apply to payments received in taxable years beginning on or after January 1, 1997, with respect to dispositions occurring in taxable years beginning after December 31, 1987.

(B) This paragraph shall not apply to taxable years beginning on or after January 1, 1998.

(2) Section 56(b)(1)(E) of the Internal Revenue Code, relating to standard deduction and deduction for personal exemptions not allowed, is modified, for purposes of this part, to deny the standard deduction allowed by Section 17073.5.

(3) Section 56(b)(3) of the Internal Revenue Code, relating to treatment of incentive stock options, shall be modified to additionally provide the following:

(A) Section 421 of the Internal Revenue Code shall not apply to the transfer of stock acquired pursuant to the exercise of a California qualified stock option under Section 17502.

(B) Section 422(c)(2) of the Internal Revenue Code shall apply in any case where the disposition and inclusion of a California qualified stock option for purposes of this chapter are within the same taxable year and that section shall not apply in any other case.

(C) The adjusted basis of any stock acquired by the exercise of a California qualified stock option shall be determined on the basis of the treatment prescribed by this paragraph.

(d) The provisions of Section 57(a)(5) of the Internal Revenue Code, relating to tax-exempt interest shall not apply.
(e) Section 57(a) of the Internal Revenue Code, relating to items of tax preference, is modified to include as an item of tax preference an amount equal to one-half of the amount excluded from gross income for the taxable year under Section 18152.5.

(f) The provisions of Section 59(a) of the Internal Revenue Code, relating to the alternative minimum tax foreign tax credit, shall not apply.

SEC. 5. Section 17062.3 is added to Revenue and Taxation Code, to read:

17062.3. The amendments made to Section 56 of the Internal Revenue Code, relating to adjustments in computing alternative minimum taxable income by Section 4(1) of Public Law 106-519, relating to the exclusion under Section 114 of the Internal Revenue Code, shall not apply.

SEC. 6. Section 17063 of the Revenue and Taxation Code is amended to read:

17063. (a) There shall be allowed as a credit against the net tax (as defined by Section 17039) for any taxable year an amount equal to the minimum tax credit for that taxable year.

(b) For purposes of subdivision (a), the minimum tax credit shall be determined in accordance with Section 53 of the Internal Revenue Code, except as otherwise provided in this part.

(c) For purposes of this chapter, the amount determined under Section 53(c)(1) of the Internal Revenue Code shall be the regular tax as defined by paragraph (2) of subdivision (b) of Section 17062, reduced by the sum of the credits allowable under this part, other than:

(1) The credits described in paragraph (7) of subdivision (a) of Section 17039.

(2) Any credit that reduces the tax below the tentative minimum tax, as defined by Section 17062.

(d) Section 53(d)(1)(B)(ii)(II) of the Internal Revenue Code, relating to credit not allowed for exclusion preferences, is modified to include subdivision (e) of Section 17062, as a specified item.

SEC. 7. Section 17085 of the Revenue and Taxation Code is amended to read:

17085. Section 72 of the Internal Revenue Code, as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16), relating to annuities and certain proceeds of life insurance contracts, is modified as follows:

(a) The amendments and transitional rules made by Public Law 99-514 shall be applicable to this part for the same transactions and the same years as they are applicable for federal purposes, except that the repeal of Section 72(d) of the Internal Revenue Code, relating to repeal
of special rule for employees’ annuities, shall apply only to the following:
(1) Any individual whose annuity starting date is after December 31, 1986.

(2) At the election of the taxpayer, any individual whose annuity starting date is after July 1, 1986, and before January 1, 1987.

(b) The amount of a distribution from an individual retirement account or annuity or employees’ trust or employee annuity that is includable in gross income for federal purposes shall be reduced for purposes of this part by the lesser of either of the following:
(1) An amount equal to the amount includable in federal gross income for the taxable year.
(2) An amount equal to the basis in the account or annuity allowed by Section 17507 (relating to individual retirement accounts and simplified employee pensions), the increased basis allowed by Sections 17504 and 17506 (relating to plans of self-employed individuals), the increased basis allowed by Section 17501, or the increased basis allowed by Section 17551 that is remaining after adjustment for reductions in gross income under this provision in prior taxable years.

(c) (1) Except as provided in paragraph (2), the amount of the penalty imposed under this part shall be computed in accordance with Sections 72(m), (q), (t), and (v) of the Internal Revenue Code using a rate of 21/2 percent, in lieu of the rate provided in those sections.
(2) In the case where Section 72(t)(6) of the Internal Revenue Code, relating to special rules for simple retirement accounts, applies, the rate in paragraph (1) shall be 6 percent in lieu of the 21/2 percent rate specified therein.

(d) Section 72(f)(2) of the Internal Revenue Code, relating to special rules for computing employees’ contributions, shall be applicable without applying the exceptions which immediately follow that paragraph.

SEC. 8. Section 17132 is added to the Revenue and Taxation Code, to read:

17132. Section 114 of the Internal Revenue Code, relating to extraterritorial income, shall not apply.

SEC. 9. Section 17132.6 is added to the Revenue and Taxation Code, to read:

17132.6. A payment under Section 103(c)(10) of the Ricky Ray Hemophilia Relief Fund Act of 1998 (Public Law 105-369) to an individual shall be treated for purposes of this part, Part 10.2 (commencing with Section 18401) and Part 11 (commencing with Section 23001) as damages described in Section 104(a)(2) of the Internal Revenue Code.
SEC. 10. Section 17140 of the Revenue and Taxation Code is amended to read:

17140. (a) For purposes of this section, the following terms have the following meanings as provided in the Golden State Scholarshare Trust Act (Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code):

(1) “Beneficiary” has the meaning set forth in subdivision (c) of Section 69980 of the Education Code.

(2) “Benefit” has the meaning set forth in subdivision (d) of Section 69980 of the Education Code.

(3) “Participant” has the meaning set forth in subdivision (h) of Section 69980 of the Education Code.

(4) “Participation agreement” has the meaning set forth in subdivision (i) of Section 69980 of the Education Code.

(5) “Scholarshare trust” has the meaning set forth in subdivision (f) of Section 69980 of the Education Code.

(b) Except as otherwise provided in subdivision (c), gross income of a beneficiary or a participant does not include any of the following:

(1) Any distribution or earnings under a Scholarshare trust participation agreement, as provided in Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code.

(2) Any contribution to the Scholarshare trust on behalf of a beneficiary shall not be includable as gross income of that beneficiary.

(c) (1) Any distribution under a Scholarshare trust participation agreement shall be includable in the gross income of the distributee in the manner as provided under Section 72 of the Internal Revenue Code, as modified by Section 17085, to the extent not excluded from gross income under this part. For purposes of applying Section 72 of the Internal Revenue Code, the following apply:

(A) All Scholarshare trust accounts of which an individual is a beneficiary shall be treated as one account, except as otherwise provided.

(B) All distributions during a taxable year shall be treated as one distribution.

(C) The value of the participation agreement, income on the participation agreement, and investment in the participation agreement shall be computed as of the close of the calendar year in which the taxable year begins.

(2) A contribution by a for-profit or nonprofit entity, or by a state or local government agency, for the benefit of an owner or employee of that entity or a beneficiary whom the owner or employee has the power to designate, including the owner or employee’s minor children, shall be included in the gross income of that owner or employee in the year the contribution is made.
(3) For purposes of this subdivision, “distribution” includes any benefit furnished to a beneficiary under a participation agreement, as provided in Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code.

(4) (A) Paragraph (1) shall not apply to that portion of any distribution that, within 60 days of distribution, is transferred to the credit of another beneficiary under the Scholarshare trust who is a “member of the family,” as that term is used in Section 529(e)(2) of the Internal Revenue Code, as amended by Section 211 of the Taxpayer Relief Act of 1997 (P.L. 105-34), of the former beneficiary of that Scholarshare trust.

(B) Any change in the beneficiary of an interest in the Scholarshare trust shall not be treated as a distribution for purposes of paragraph (1) if the new beneficiary is a “member of the family,” as that term is used in Section 529(e)(2) of the Internal Revenue Code, as amended by Section 211 of the Taxpayer Relief Act of 1997 (P.L. 105-34), of the former beneficiary of that Scholarshare trust.

(d) For taxable years beginning on or after January 1, 2002, Sections 529(c) and 529(e) of the Internal Revenue Code, as amended by Section 402 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and Section 417 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147), shall apply in lieu of subdivisions (b) and (c) of this section.

SEC. 11. Section 17140.3 of the Revenue and Taxation Code is amended to read:

17140.3. Section 529 of the Internal Revenue Code, as amended by Section 402 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and Section 417 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147), relating to qualified state tuition programs, shall apply, except as otherwise provided.

(a) Section 529 (a) of the Internal Revenue Code is modified as follows:

(1) By substituting the phrase “under this part and Part 11 (commencing with Section 23001)” in lieu of the phrase “under this subtitle.”

(2) By substituting “Article 2 (commencing with Section 23731)” in lieu of “Section 511.”

(b) A copy of the report required to be filed with the Secretary of the Treasury under Section 529(d) of the Internal Revenue Code shall be filed with the Franchise Tax Board at the same time and in the same manner as specified in that section.

SEC. 12. Section 17144 of the Revenue and Taxation Code is amended to read:
17144. (a) Section 108(b)(2)(B) of the Internal Revenue Code, relating to general business credit, is modified by substituting “this part” in lieu of “Section 38 (relating to general business credit).”

(b) Section 108(b)(2)(G) of the Internal Revenue Code, relating to foreign tax credit carryovers, shall not apply.

(c) Section 108(b)(3)(B) of the Internal Revenue Code, relating to credit carryover reduction, is modified by substituting “11.1 cents” in lieu of “33 1/3 cents” in each place in which it appears. In the case where more than one credit is allowable under this part, the credits shall be reduced on a pro rata basis.

(d) Section 108(g)(3)(B) of the Internal Revenue Code, relating to adjusted tax attributes, is modified by substituting “($9)” in lieu of “($3).”

(e) (1) If a taxpayer makes an election for federal income tax purposes under Section 108(c) of the Internal Revenue Code, relating to treatment of discharge of qualified real property business indebtedness, a separate election shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5 and the federal election shall be binding for purposes of this part.

(2) If a taxpayer has not made an election for federal income tax purposes under Section 108(c) of the Internal Revenue Code, relating to treatment of discharge of qualified real property business indebtedness, then the taxpayer shall not be allowed to make that election for purposes of this part.

(f) The amendments made to Section 108(d)(7)(A) of the Internal Revenue Code, relating to certain provisions to be applied at the corporate level, by Section 402 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147), shall apply to discharges of indebtedness after December 31, 2001, in taxable years ending after that date. This subdivision shall not apply to any discharge of indebtedness made before March 1, 2002, pursuant to a plan of reorganization filed with a bankruptcy court on or before October 11, 2001.

SEC. 13. Section 17144.5 is added to the Revenue and Taxation Code, to read:

17144.5. Section 132 of the Internal Revenue Code, as amended by Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16), shall apply except as otherwise provided.

SEC. 14. Section 17205 is added to the Revenue and Taxation Code, to read:

17205. Section 219 of the Internal Revenue Code, as amended by Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16), relating to retirement savings, shall apply, except as otherwise provided.
SEC. 15. Section 17251.5 of the Revenue and Taxation Code is repealed.
SEC. 16. Section 17270.5 of the Revenue and Taxation Code is repealed.
SEC. 17. Section 17271 of the Revenue and Taxation Code is repealed.
SEC. 18. Section 17275.5 of the Revenue and Taxation Code is amended to read:

17275.5. (a) No deduction shall be denied under Section 170(f)(8) of the Internal Revenue Code, relating to substantiation requirement for certain contributions, upon a showing that the requirements in Section 170(f)(8) of the Internal Revenue Code have been met with respect to that contribution for federal purposes.
(b) Section 170(f)(10)(F) of the Internal Revenue Code, relating to the excise tax on premiums paid, shall not apply.
SEC. 19. Section 17279.5 of the Revenue and Taxation Code is repealed.
SEC. 20. Section 17501 of the Revenue and Taxation Code is amended to read:

17501. (a) Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code, relating to deferred compensation, shall apply, except as otherwise provided.
(b) Notwithstanding Section 17024.5, Part I of Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code, relating to pension, profit sharing, stock bonus plans, etc., shall apply, except as otherwise provided, without regard to taxable year to the same extent as applicable for federal purposes.
(c) The maximum amount of elective deferrals (as defined in Section 402(g)(3)) for the taxable year that may be excluded from gross income under Section 403(g) of the Internal Revenue Code, as applicable for state purposes, shall not exceed the amount of elective deferrals that may be excluded from gross income under Section 402(g) of the Internal Revenue Code, as amended by Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and Section 411 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147), including additional elective deferrals under Section 414(v) of the Internal Revenue Code, as added by Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and Section 411 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147).
(d) (1) For taxable years beginning on or after January 1, 2002, the basis of any person in the plan, account, or annuity shall be increased by the amount of elective deferrals not excluded as a result of the application of subdivision (c).
(2) Any basis described in paragraph (1) shall be recovered in the manner specified in Section 17085.

(e) Notwithstanding the limitations provided in subdivision (c), any income attributable to elective deferrals in taxable years beginning on or after January 1, 2002, in conformance with Part I of Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code, as applicable for federal and state purposes, shall not be includable in the gross income of the individual for whose benefit the plan or account was established until distributed pursuant to the plan or by operation of law.

SEC. 21. Section 17551 of the Revenue and Taxation Code is amended to read:

17551. (a) Subchapter E of Chapter 1 of Subtitle A of the Internal Revenue Code, relating to accounting periods and methods of accounting, shall apply, except as otherwise provided.

(b) Section 444(c)(1) of the Internal Revenue Code, relating to effect of election, shall not apply.

(c) (1) Notwithstanding Section 17024.5, Section 457 of the Internal Revenue Code, relating to deferred compensation plans of state and local governments and tax-exempt organizations, shall apply, except as otherwise provided, without regard to taxable year to the same extent as applicable for federal purposes.

(2) The maximum deferred compensation for the taxable year that may be excluded from gross income under Section 457 of the Internal Revenue Code shall not exceed the amount of deferred compensation that may be excluded from gross income under Section 457 of the Internal Revenue Code, as amended by Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and Section 411 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147), including additional elective deferrals under Section 414(v) of the Internal Revenue Code, as added by Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and Section 411 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147).

(d) (1) For taxable years beginning on or after January 1, 2002, the basis of any person in the plan shall be increased by the amount of compensation not allowed to be excluded under subdivision (a).

(2) Any basis described in paragraph (1) shall be recovered in the manner specified in Section 17085.

(e) Notwithstanding the limitations provided in subdivision (a), any income attributable to compensation deferred in a plan in taxable years beginning on or after January 1, 2002, in conformance with Section 457 of the Internal Revenue Code, as applicable for federal and state purposes, shall not be includable in the gross income of the individual
for whose benefit the plan was established until distributed pursuant to the provisions of the plan or by operation of law.

SEC. 22. Section 17552.3 is added to the Revenue and Taxation Code, to read:

17552.3. (a) (1) The options under Sections 112(d)(2) and 112(d)(3) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. Sec. 7212(d)(2) and (3)), as in effect on October 21, 1998, shall be disregarded in determining the taxable year for which any payment under a production flexibility contract under Subtitle B of Title I of that act (as so in effect) is properly includable in gross income for purposes of this part, Part 10.2 (commencing with Section 18401), and Part 11 (commencing with Section 23001).

(2) In order to provide farmers with the same tax treatment for all payments in years beginning before January 1, 2002, with respect to production flexibility contract payments as provided under federal law as modified by Public Law 105-277, this subdivision shall apply to taxable years ending after December 31, 1995.

(b) Any option to accelerate the receipt of any payment under a production flexibility contract entered into on or after January 1, 2002, that is payable under the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. Sec. 7200 et seq.) as in effect on December 17, 1999, shall be disregarded in determining the taxable year for which that payment is properly includable in gross income for purposes of this part, Part 10.2 (commencing with Section 18401), and Part 11 (commencing with Section 23001).

SEC. 23. Section 17560 of the Revenue and Taxation Code is amended to read:

17560. (a) The provisions of Sections 811(c)(4), 811(c)(6), and 811(c)(7) of Public Law 99-514, as modified by Section 1008(f) of Public Law 100-647, shall apply.

(b) The provisions of Section 812 of Public Law 99-514, relating to the disallowance of use of installment method for certain obligations as modified by Section 1008(g) of Public Law 100-647, shall apply to taxable years beginning on or after January 1, 1987.

(c) The repeal of Section 453C of the Internal Revenue Code by Section 10202(a) of Public Law 100-203, relating to repeal of the proportionate disallowance of the installment method, shall apply to dispositions in taxable years beginning on or after January 1, 1990.

(d) (1) In the case of any installment obligation to which Section 453(l)(2)(B) of the Internal Revenue Code applies, in lieu of the provisions of Section 453(l)(3)(A) of the Internal Revenue Code, the tax imposed under Section 17041 or 17048 for any taxable year for which payment is received on that obligation shall be increased by the amount
of interest determined in the manner provided under Section 453(l)(3)(B) of the Internal Revenue Code.

(2) The provisions of Sections 10202 and 10204 of Public Law 100-203 are modified to provide for each of the following:

(A) The provisions of Section 10202 shall apply to dispositions in taxable years beginning on or after January 1, 1990.

(B) The provisions of Section 10204 shall apply to costs incurred in taxable years beginning on or after January 1, 1990.

(C) Any adjustments required by Section 481 of the Internal Revenue Code shall be included in gross income as follows:

(i) Fifty percent in the first taxable year beginning on or after January 1, 1990.

(ii) Fifty percent in the second taxable year beginning on or after January 1, 1990.

(e) (1) In the case of any installment obligation to which Section 453A of the Internal Revenue Code applies and which is outstanding as of the close of the taxable year, in lieu of the provisions of Section 453A(c)(1) of the Internal Revenue Code, the tax imposed by Section 17041 or 17048 for the taxable year shall be increased by the amount of interest determined in the manner provided under Section 453A(c)(2) of the Internal Revenue Code.

(2) The provisions of Section 453A(c)(3)(B) of the Internal Revenue Code, relating to the maximum rate used in calculating the deferred tax liability, are modified to refer to the maximum rate of tax imposed under Section 17041 in lieu of the maximum rate of tax imposed under Section 1 or 11 of the Internal Revenue Code.

(f) (1) The last sentence of Section 453A(d)(4) of the Internal Revenue Code, relating to secured indebtedness, shall not apply.

(2) This subdivision shall apply to sales or other dispositions occurring on or after January 1, 2002.

SEC. 24. Section 17563.5 is added to the Revenue and Taxation Code, to read:

17563.5. (a) The amendment made by Section 7001(a) of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206) to Section 404(a)(11) of the Internal Revenue Code, regarding determinations relating to deferred compensation, shall apply to taxable years beginning on or after January 1, 2002.

(b) In the case of any taxpayer required by enactment of this section to change the method of accounting, for that taxpayer’s first taxable year beginning on or after January 1, 2002, each of the following shall apply for purposes of this part, Part 10.2 (commencing with Section 18401), and Part 11 (commencing with Section 23001):

(1) The change shall be treated as initiated by the taxpayer.
(2) The change shall be treated as made with the consent of the Franchise Tax Board.

(3) The net amount of the adjustments required to be taken into account by the taxpayer under Chapter 6 (commencing with Section 17551) shall be taken into account ratably over the three taxable year period beginning with that taxpayer’s first taxable year beginning on or after January 1, 2002.

SEC. 25. Section 17570 of the Revenue and Taxation Code is amended to read:

17570. (a) Section 13233(c)(2)(C) of the Revenue Reconciliation Act of 1993 (Public Law 103-66), relating to the effective date for changes in the mark to market accounting method for securities dealers, is modified to provide that the amount taken into account under Section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the five-taxable-year period beginning with the first taxable year beginning on or after January 1, 1997.

(b) In the case of any taxpayer required by the enactment of the act adding this subdivision, which act incorporated by reference the amendments made by Section 7003 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206) to Section 475 of the Internal Revenue Code, for taxable years beginning on or after January 1, 2002, to change its method of accounting on its first taxable year beginning on or after January 1, 2002, then each of the following shall apply for purposes of this part, Part 10.2 (commencing with Section 18401), and Part 11 (commencing with Section 23001):

(1) The change shall be treated as initiated by the taxpayer.

(2) The change shall be treated as made with the consent of the Franchise Tax Board.

(3) The taxpayer shall not be required to make a change in the method of accounting until the first taxable year beginning on or after January 1, 2002.

(4) The net amount of the adjustments required to be taken into account by the taxpayer under Chapter 6 (commencing with Section 17551) shall be taken into account ratably over the three taxable year period beginning with that taxpayer’s first taxable year beginning on or after January 1, 2002.

(c) (1) If a taxpayer has, at any time, made an election for federal purposes under Section 475(e) of the Internal Revenue Code, relating to election of mark to market for dealers in commodities, to have Section 475 of the Internal Revenue Code apply, Section 475 of the Internal Revenue Code shall apply to that dealer in commodities for state purposes, a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5, and the federal election shall be binding for purposes of this part.
(2) If a taxpayer fails to make, or has not previously made, an election for federal purposes under Section 475(e) of the Internal Revenue Code, relating to election of mark to market for dealers in commodities, to have Section 475 of the Internal Revenue Code apply, an election under Section 475(e) of the Internal Revenue Code shall not be allowed for state purposes, Section 475 of the Internal Revenue Code shall not apply to that dealer in commodities for state purposes, and a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5.

(d) (1) If a taxpayer has, at any time, made an election for federal purposes under Section 475(f)(1) of the Internal Revenue Code, relating to election of mark to market for traders in securities, to have Section 475 of the Internal Revenue Code apply to a trade or business, Section 475 of the Internal Revenue Code shall apply to that trader in securities for state purposes with respect to that trade or business, a separate election for state purposes with respect to that trade or business shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5, and the federal election shall be binding for purposes of this part.

(2) If a taxpayer fails to make, or has not previously made, an election for federal purposes under Section 475(f)(1) of the Internal Revenue Code, relating to election of mark to market for traders in securities, to have Section 475 of the Internal Revenue Code apply to a trade or business, an election under Section 475(f)(1) of the Internal Revenue Code shall not be allowed for state purposes with respect to that trade or business, Section 475 of the Internal Revenue Code shall not apply to that trader in securities for state purposes with respect to that trade or business, and a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5.

(e) (1) If a taxpayer has, at any time, made an election for federal purposes under Section 475(f)(2) of the Internal Revenue Code, relating to election of mark to market for traders in commodities, to have Section 475 of the Internal Revenue Code apply to a trade or business, Section 475 of the Internal Revenue Code shall apply to that trader in commodities for state purposes with respect to that trade or business, a separate election for state purposes with respect to that trade or business shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5, and the federal election with respect to that trade or business shall be binding for purposes of this part.

(2) If a taxpayer fails to make, or has not previously made, an election for federal purposes under Section 475(f)(2) of the Internal Revenue Code, relating to election of mark to market for traders in commodities, to have Section 475 of the Internal Revenue Code apply to a trade or business, an election under Section 475(f)(2) of the Internal Revenue Code shall not be allowed for state purposes with respect to that trade or
business, Section 475 of the Internal Revenue Code shall not apply to that trader in commodities for state purposes with respect to that trade or business, and a separate election for state purposes with respect to that trade or business shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5.

(f) (1) An election under Section 475(e) or (f) of the Internal Revenue Code made for federal purposes with respect to a taxable year beginning before January 1, 1998, shall be treated as having been made for state purposes with respect to the first taxable year beginning on or after January 1, 1998.

(2) Section 1001(d)(4)(B) of the Taxpayer Relief Act of 1997 (Public Law 105-34), relating to the effective date for election of mark to market by securities traders and traders and dealers in commodities, is modified to provide that the requirement for timely identification shall be treated as timely made for state purposes if that identification is treated as timely made for federal purposes, and the amount taken into account under Section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the four-taxable-year period beginning with the first taxable year beginning on or after January 1, 1998.

SEC. 26. Section 17731.5 of the Revenue and Taxation Code is amended to read:

17731.5. (a) Section 641(c)(2)(A) of the Internal Revenue Code is modified to read: “The amount of the tax imposed by subdivision (e) of Section 17041 shall be determined by using the highest rate of tax applicable to an individual under subdivision (a) of Section 17041.”

(b) Section 641(c)(2)(B) of the Internal Revenue Code is modified to read: “The credit allowed under subdivision (b) of Section 17733 shall be zero.”

SEC. 27. Section 17751 of the Revenue and Taxation Code is amended to read:

17751. Section 645 of the Internal Revenue Code, relating to certain revocable trusts treated as part of estate, is modified as follows:

(a) An election under Section 645(a) of the Internal Revenue Code for federal purposes shall be treated for purposes of this part as an election made by the executor, if any, of the estate and the trustee of the qualified revocable trust under Section 645(a) of the Internal Revenue Code for state purposes and a separate election under paragraph (3) of subdivision (e) of Section 17024.5 shall not be allowed.

(b) If the executor, if any, of the estate and the trustee of a qualified revocable trust fail to make an election under Section 645(a) of the Internal Revenue Code for federal purposes with respect to that qualified revocable trust, that trust shall be treated and taxed for purposes of this part as a separate trust, an election under Section 645(a) of the Internal Revenue Code for state purposes with respect to that trust shall not be
allowed, and a separate election under paragraph (3) of subdivision (e) of Section 17024.5 shall not be allowed with respect to that trust.

SEC. 28. Section 18038.5 of the Revenue and Taxation Code is amended to read:

18038.5. (a) In the case of any sale of qualified small business stock held by a taxpayer other than a corporation for more than six months and with respect to which that taxpayer elects the application of this section, gain from that sale shall be recognized only to the extent that the amount realized on that sale exceeds:

(1) The cost of any qualified small business stock purchased by the taxpayer during the 60-day period beginning on the date of that sale, reduced by

(2) Any portion of the cost previously taken into account under this section.

This section shall not apply to any gain that is treated as ordinary income for purposes of this part.

(b) For purposes of this section:

(1) The term “qualified small business stock” has the meaning given that term by subdivision (c) of Section 18152.5.

(2) A taxpayer shall be treated as having purchased any property if, but for paragraph (3), the unadjusted basis of that property in the hands of the taxpayer would be its cost (within the meaning of Section 1012 of the Internal Revenue Code).

(3) If gain from any sale is not recognized by reason of subdivision (a), that gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any qualified small business stock that is purchased by the taxpayer during the 60-day period described in subdivision (a).

(4) For purposes of determining whether the nonrecognition of gain under subdivision (a) applies to stock that is sold, both of the following shall apply:

(A) The taxpayer’s holding period for that stock and the stock referred to in paragraph (1) of subdivision (a) shall be determined without regard to Section 1223 of the Internal Revenue Code.

(B) Only the first six months of the taxpayer’s holding period for the stock referred to in paragraph (1) of subdivision (a) shall be taken into account for purposes of applying paragraph (2) of subdivision (c) of Section 18152.5.

(5) Rules similar to the rules of subdivisions (f), (g), (h), (i), (j), and (k) of Section 18152.5 shall apply.

(c) This section shall apply to sales made after August 5, 1997.

SEC. 29. Section 19136 of the Revenue and Taxation Code is amended to read:
Section 19136.  (a) Section 6654 of the Internal Revenue Code, relating to failure by an individual to pay estimated income tax, shall apply, except as otherwise provided.
(b) Section 6654(a)(1) of the Internal Revenue Code is modified to refer to the rate determined under Section 19521 in lieu of Section 6621 of the Internal Revenue Code.
(c)  (1) Section 6654(e)(1) of the Internal Revenue Code, relating to exceptions where the tax is a small amount, shall not apply.
(2) No addition to the tax shall be imposed under this section if the tax imposed under Section 17041 or 17048 for the preceding taxable year, minus the sum of any credits against the tax provided by Part 10 (commencing with Section 17001) or this part, or the tax computed under Section 17041 or 17048 upon the estimated income for the taxable year, minus the sum of any credits against the tax provided by Part 10 (commencing with Section 17001) or this part, is less than two hundred dollars ($200), except in the case of a separate return filed by a married person the amount shall be less than one hundred dollars ($100).
(d) Section 6654(f) of the Internal Revenue Code shall not apply and for purposes of this section the term “tax” means the tax imposed under Section 17041 or 17048, less any credits against the tax provided by Part 10 (commencing with Section 17001) or this part, other than the credit provided by subdivision (a) of Section 19002.
(e) The credit for tax withheld on wages, as specified in Section 6654(g) of the Internal Revenue Code, shall be the credit allowed under subdivision (a) of Section 19002.
(f) This section shall apply to a nonresident individual.

SEC. 30.  Section 19136.8 is added to the Revenue and Taxation Code, to read:

19136.8.  (a) No addition to tax shall be made under Section 19136 for any period before April 15, 2003, with respect to any underpayment of an installment for the 2002 taxable year, to the extent that the underpayment was created or increased by any provision of the act adding this section.
(b) No addition of tax shall be made under Section 19142 for any period before April 15, 2003, with respect to any underpayment of an installment for the 2002 taxable year, to the extent that the underpayment was created or increased by any provision of the act adding this section.
(c) The Franchise Tax Board shall implement this section in a reasonable manner.

SEC. 31.  Section 19141 of the Revenue and Taxation Code is amended to read:

19141.  Upon certification by the Secretary of State pursuant to subdivision (a) of Section 2204 or subdivision (a) of Section 17563 of the Corporations Code, the Franchise Tax Board shall assess a penalty
of two hundred fifty dollars ($250). Upon certification by the Secretary of State pursuant to subdivision (a) of Section 6810 or subdivision (a) of Section 8810 of the Corporations Code, the Franchise Tax Board shall assess a penalty of fifty dollars ($50). Any penalty assessed under this section shall be a final assessment due and payable at the time of assessment but no interest shall accrue thereon. The assessment shall be collected as other taxes, interest, and penalties are collected by the Franchise Tax Board unless the Secretary of State decertifies the name of the corporation as provided in subdivision (e) or (f) of Section 2204, subdivision (e) of Section 6810, or subdivision (e) of Section 8810 of the Corporations Code.

SEC. 32. Section 19365 of the Revenue and Taxation Code is amended to read:

19365. (a) (1) A corporation electing to be treated as an “S corporation” for a taxable year beginning in 2002 under Chapter 4.5 (commencing with Section 23800) of Part 11 may file an application for the transfer of an overpayment with respect to payments of estimated tax for taxable years beginning in 2002 to the personal income tax accounts of its shareholders. An application under this subdivision shall not constitute a claim for credit or refund.

(2) An application under this subdivision shall be verified in the manner prescribed by Section 18621 in the case of the taxpayer, and shall be filed in the manner and form prescribed by the Franchise Tax Board. The application shall set forth all of the following:

(A) The amount the “S corporation” estimates as its tax liability under this part for the taxable year, which shall not be less than the greater of 1 1/2 percent of its net income or the applicable minimum franchise tax.

(B) The amount and date of the estimated tax paid during the taxable year.

(C) For each shareholder affected, his or her name, social security account number, address, and percentage of ownership, and any changes in that percentage of ownership for the S corporation’s taxable year, the amount of each overpayment to be transferred, and the date the amount was paid.

(D) Any other information for purposes of carrying out this section as may be required by the Franchise Tax Board.

(b) (1) Within a period of 45 days from the date on which an application for a transfer is filed under subdivision (a), the Franchise Tax Board shall make, to the extent it deems practicable in that period, a limited examination of the application to discover omissions and errors therein, and shall determine the final amount of the transfers upon the basis of the application and the examination, except that the Franchise Tax Board may disallow, without further action, any application which
it finds contains material omissions or errors which it deems cannot be
corrected within the 45-day period.

(2) The Franchise Tax Board, within the 45-day period referred to in
paragraph (1), may credit the amount of the overpayment against any
liability on the part of the taxpayer under Part 11 (commencing with
Section 23001).

(3) In the event the amount available for transfer is less than requested
by the taxpayer, the overpayment amount shall be allocated among the
shareholders on a pro rata basis based on their percentage of ownership
stated on the application.

(4) For purposes of Part 10 (commencing with Section 17001), Part
11 (commencing with Section 23001), and this part, the transferred
amounts shall be treated as if they had been estimated tax payments paid
by the respective shareholders on the date originally paid by the
corporation.

(5) No application under subdivision (a) shall be allowed unless the
amount to be transferred equals or exceeds five hundred dollars ($500).

(6) Each S corporation which files an application for transfer of
overpayments under subdivision (a) shall furnish to each person who is
a shareholder at any time during the taxable year a statement showing
amounts and dates of the overpayments being transferred to that person’s
personal income tax account.

SEC. 33. Section 19521 of the Revenue and Taxation Code is
amended to read:

19521. (a) The rate established under this section (referred to in
other code sections as “the adjusted annual rate”) shall be determined
in accordance with Section 6621 of the Internal Revenue Code, except
that:

(1) The overpayment rate specified in Section 6621(a)(1) of the
Internal Revenue Code shall be modified to be equal to the
underpayment rate determined under Section 6621(a)(2) of the Internal
Revenue Code; and

(2) The determination specified in Section 6621(b) of the Internal
Revenue Code shall be modified to be determined semiannually as
follows:

(A) The rate for January shall apply during the following July through
December, and

(B) The rate for July shall apply during the following January through
June.

(b) (1) For purposes of this part, Part 10 (commencing with Section
17001), Part 11 (commencing with Section 23001), and any other
provision of law referencing this method of computation, in computing
the amount of any interest required to be paid by the state or by the
taxpayer, or any other amount determined by reference to that amount of interest, that interest and that amount shall be compounded daily.

(2) Paragraph (1) shall not apply for purposes of computing the amount of any addition to tax under Section 19136 or 19142.

(c) Section 6621(c) of the Internal Revenue Code, relating to increase in underpayment rate for large corporate underpayments, is modified as follows:

(1) The applicable date shall be the 30th day after the earlier of either of the following:

(A) The date on which the proposed deficiency assessment is issued.

(B) The date on which the notice and demand is sent.

(2) This subdivision shall apply for purposes of determining interest for periods after December 31, 1991.

(3) Section 6621(c)(2)(B)(iii) of the Internal Revenue Code shall apply for purposes of determining interest for periods after December 31, 1998.

(d) Section 6621(d) of the Internal Revenue Code, relating to the elimination of interest on overlapping periods of tax overpayments and underpayments, shall not apply.

SEC. 34. Section 23038.5 of the Revenue and Taxation Code is amended to read:

23038.5. (a) Section 7704 of the Internal Revenue Code, relating to certain publicly traded partnerships treated as corporations, shall apply, except as otherwise provided.

(b) (1) Section 7704(a) of the Internal Revenue Code shall not apply to an electing 1987 partnership.

(2) For purposes of this subdivision, the term “electing 1987 partnership” means any publicly traded partnership if all of the following apply:

(A) The partnership is an existing partnership (as defined in Section 10211(c)(2) of the Revenue Reconciliation Act of 1987).

(B) Section 7704(a) of the Internal Revenue Code has not applied (and without regard to Section 7704(c)(1) of the Internal Revenue Code would not have applied) to that partnership for all prior taxable years beginning after December 31, 1987, and before January 1, 1998.

(C) (i) The partnership has made the election under Section 7704(g)(2)(C) of the Internal Revenue Code for federal tax purposes.

(ii) The election for federal tax purposes described in clause (i) shall be treated as a binding election and a separate election for state tax purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 23051.5.

(iii) The election for federal tax purposes described in clause (i) shall be treated as a binding consent to the application of the tax imposed under paragraph (3) and a separate election for state tax purposes shall
not be allowed under paragraph (3) of subdivision (e) of Section 23051.5.

(D) A partnership that, but for this subparagraph, would be treated as an electing 1987 partnership shall cease to be so treated (and the election under subparagraph (C) shall cease to be in effect) as of the first day after December 31, 1997, that the partnership is no longer treated as an electing 1987 partnership for federal tax purposes (and the election under Section 7704(g)(2)(C) of the Internal Revenue Code ceases to be in effect for federal tax purposes).

(3) (A) There is hereby imposed for each taxable year beginning on or after January 1, 1998, on the gross income of each electing 1987 partnership a tax equal to 1 percent of that partnership’s gross income from all sources reportable to this state, taking into account Section 25101 and any election under Section 25110, attributable to the active conduct of trades and businesses by the partnership.

(B) The tax shall be due and payable on the date the return of the partnership is required to be filed under Section 18633 and shall be paid by the partnership. The tax shall be paid, collected, and refunded in the same manner as other taxes imposed by this part on corporations, and shall be subject to interest and applicable penalties. Section 19147 shall be applied to the partnership with respect to the tax imposed by this paragraph in the same manner as if references in that section to the taxable income were references to gross income referred to in subparagraph (A).

(C) For purposes of this paragraph, if a partnership is a partner in another partnership, the gross income referred to in subparagraph (A) shall include the partnership’s distributive share of the gross income of the other partnership from all sources reportable to this state, taking into account Section 25101 and any election under Section 25110, attributable to the active conduct of trades and businesses of that other partnership. A similar rule shall apply in the case of lower-tiered partnerships.

(D) The tax imposed by this paragraph shall be treated as imposed by this part other than for purposes of determining the amount of any credit allowable under this part.

(4) The provisions of this subdivision shall apply to the taxable year for which the election described in clause (i) of subparagraph (C) of paragraph (2) is made for federal purposes and all subsequent taxable years unless revoked by the partnership for federal purposes. Any revocation made for federal purposes shall be treated as a binding revocation under this part, but, once so revoked, may not be reinstated and a separate revocation for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 23051.5.
(c) The amendment made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 1998.

SEC. 35. Section 23456 of the Revenue and Taxation Code is amended to read:

23456. For purposes of this part, Section 56 of the Internal Revenue Code is modified as follows:

(a) (1) Section 56(a)(2) of the Internal Revenue Code, relating to mining exploration and development costs, shall apply only to expenses incurred during taxable years beginning on or after January 1, 1988.

(2) Section 56(a)(5) of the Internal Revenue Code, relating to pollution control facilities, shall apply only to amounts allowable as a deduction under Section 24372.3.

(3) (A) Section 56(a)(6) of the Internal Revenue Code, as in effect on January 1, 1997, relating to installment sales of certain property, shall not apply to payments received in taxable years beginning on or after January 1, 1997, with respect to dispositions occurring in taxable years beginning after December 31, 1987.

(B) This paragraph shall not apply to any taxable year beginning on or after January 1, 1998.

(b) For purposes of applying Section 56(d) of the Internal Revenue Code, all references to “December 31, 1986,” are modified to read “December 31, 1987,” and all references to “January 1, 1987,” are modified to read “January 1, 1988.”

(c) Section 56(d)(1) of the Internal Revenue Code, relating to the alternative tax net operating loss deduction, is modified to include the provisions of Section 25108.

(d) For each taxable year beginning on or after January 1, 1988, and before January 1, 1990, Section 56(f)(2)(E) of the Internal Revenue Code, as it read during that period, is modified to refer to both of the following:

(1) Cooperatives under Section 24404 in lieu of the deduction allowed under Section 1382(b) of the Internal Revenue Code.

(2) Credit unions under Section 24405 as though the deduction allowed under Section 1382(b) of the Internal Revenue Code applied to credit unions.

(e) Section 56(g) of the Internal Revenue Code, relating to adjustments based on adjusted current earnings, is modified to provide that for corporations whose income is determined under Chapter 17 (commencing with Section 25101), adjusted current earnings shall be allocated and apportioned in the same manner as net income is allocated and apportioned for purposes of the regular tax. In addition, each of the following shall apply:
(1) Sections 56(g)(1)(A) and 56(g)(3) of the Internal Revenue Code are modified to provide that the term “adjusted current earnings” means the sum of the adjusted current earnings of that corporation apportionable to this state and the adjusted current earnings allocable to this state.

(2) Section 56(g)(1)(B) of the Internal Revenue Code is modified to provide that the term “alternative minimum taxable income” means the sum of the alternative minimum taxable income of that corporation apportionable to this state and the alternative minimum taxable income allocable to this state.

(f) Section 56(g)(4)(A) of the Internal Revenue Code is modified to provide the following:

(1) In the case of any property placed in service on or after January 1, 1981, and prior to January 1, 1987, other than residential rental property for which an election was made under former Section 24349.5, the amount allowable as depreciation or amortization with respect to that property shall be the same amount that would have been allowable for the taxable year had the taxpayer depreciated the property under the straight line method for each taxable year of the useful life (determined without regard to Section 24354.2) for which the taxpayer has held the property.

(2) In the case of any property placed in service on or after January 1, 1987, and prior to January 1, 1990, other than residential rental property for which an election was made under former Section 24349.5, the amount allowable as depreciation or amortization with respect to that property shall be determined by each of the following:

(A) Taking into account the adjusted basis of that property (as determined for purposes of computing alternative minimum taxable income) as of the close of the last taxable year beginning before January 1, 1990.

(B) Using the straight line method over the remainder of the recovery period applicable to that property under the alternative system of Section 168(g) of the Internal Revenue Code.

(3) The amendments made to paragraph (2) by the act adding this paragraph shall apply to taxable years beginning on or after January 1, 1990.

(4) The last sentence of Section 56(g)(4)(A)(i) of the Internal Revenue Code, shall not apply to taxable years beginning before January 1, 1998.

(g) (1) Section 56(g)(4)(C) of the Internal Revenue Code, relating to disallowance of items not deductible in computing earnings and profits, shall be modified as follows:
(A) (i) A deduction shall be allowed for amounts allowable as a deduction for purposes of the regular tax under Sections 24402, 24410, 24411, and 25106.

(ii) For each taxable year beginning on or after January 1, 1990, a deduction shall be allowed for amounts allowable as a deduction to a credit union for purposes of the regular tax under Section 24405.

(B) Section 56(g)(4)(C)(ii) of the Internal Revenue Code, relating to special rule for 100-percent dividends, shall not be applicable.

(C) Section 56(g)(4)(C)(iii) of the Internal Revenue Code, relating to special rule for dividends from Section 936 companies, shall not be applicable.

(D) Section 56(g)(4)(C)(iv) of the Internal Revenue Code, relating to special rule for certain dividends received by certain cooperatives, shall not be applicable.

(2) Section 56(g)(4)(D)(ii) of the Internal Revenue Code is modified to specify that Sections 24364 and 24407 shall not apply to expenditures paid or incurred in taxable years beginning on or after January 1, 1990.

(3) With respect to corporations that are not subject to the tax imposed under Chapter 2 (commencing with Section 23101), the amount of interest income included in the adjusted current earnings shall not exceed the amount of interest income included for purposes of the regular tax.

(4) Appropriate adjustments shall be made to limit deductions from adjusted current earnings for interest expense in accordance with the provisions of Sections 24344 and 24425.

SEC. 36. Section 23456.5 is added to the Revenue and Taxation Code, to read:

23456.5. The amendments to Section 56 of the Internal Revenue Code by Section 4(1) of Public Law 106-519, regarding adjustments in computing alternative minimum tax income relating to the exclusion under Section 114 of the Internal Revenue Code, shall not apply.

SEC. 37. Section 23457 of the Revenue and Taxation Code is amended to read:

23457. For purposes of this part, Section 57 of the Internal Revenue Code is modified as follows:

(a) Section 57(a)(5) of the Internal Revenue Code, relating to tax-exempt interest, shall not be applicable.

(b) Section 57(a) of the Internal Revenue Code, relating to items of tax preference, is modified to include as an item of tax preference the amount by which the deduction allowable under Section 24348 for the taxable year for a reasonable addition to a reserve for bad debts exceeds the amount that would have been allowable had the taxpayer maintained its bad debt reserve for all taxable years on the basis of actual experience.
(c) Section 57(a)(6) of the Internal Revenue Code, relating to accelerated depreciation or amortization on certain property placed in service before January 1, 1987, is modified to read: With respect to each property as described in Section 1250(c) of the Internal Revenue Code as that provision read on April 1, 1970, the amount by which the deduction allowable for the taxable year for exhaustion, wear, tear, obsolescence, or amortization exceeds the depreciation deduction that would have been allowable for the taxable year, had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life (determined without regard to Section 24354.2 or 24381) for which the taxpayer has held the property.

SEC. 38. Section 23609 of the Revenue and Taxation Code is amended to read:

23609. For each taxable year beginning on or after January 1, 1987, there shall be allowed as a credit against the “tax” (as defined by Section 23036) an amount determined in accordance with Section 41 of the Internal Revenue Code, except as follows:

(a) For each taxable year beginning before January 1, 1997, both of the following modifications shall apply:

(1) The reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “8 percent.”

(2) The reference to “20 percent” in Section 41(a)(2) of the Internal Revenue Code is modified to read “12 percent.”

(b) (1) For each taxable year beginning on or after January 1, 1997, and before January 1, 1999, both of the following modifications shall apply:

(A) The reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “11 percent.”

(B) The reference to “20 percent” in Section 41(a)(2) of the Internal Revenue Code is modified to read “24 percent.”

(2) For each taxable year beginning on or after January 1, 1999, and before January 1, 2000, both of the following shall apply:

(A) The reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “12 percent.”

(B) The reference to “20 percent” in Section 41(a)(2) of the Internal Revenue Code is modified to read “24 percent.”

(3) For each taxable year beginning on or after January 1, 2000, both of the following shall apply:

(A) The reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “15 percent.”

(B) The reference to “20 percent” in Section 41(a)(2) of the Internal Revenue Code is modified to read “24 percent.”

(c) (1) With respect to any expense paid or incurred after the operative date of Section 6378, Section 41(b)(1) of the Internal Revenue
Code is modified to exclude from the definition of “qualified research expense” any amount paid or incurred for tangible personal property that is eligible for the exemption from sales or use tax provided by Section 6378.

(2) “Qualified research” and “basic research” shall include only research conducted in California.

(d) The provisions of Section 41(e)(7)(A) of the Internal Revenue Code, shall be modified so that “basic research,” for purposes of this section, includes any basic or applied research including scientific inquiry or original investigation for the advancement of scientific or engineering knowledge or the improved effectiveness of commercial products, except that the term does not include any of the following:

(1) Basic research conducted outside California.

(2) Basic research in the social sciences, arts, or humanities.

(3) Basic research for the purpose of improving a commercial product if the improvements relate to style, taste, cosmetic, or seasonal design factors.

(4) Any expenditure paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (including oil and gas).

(e) (1) In the case of a taxpayer engaged in any biopharmaceutical research activities that are described in codes 2833 to 2836, inclusive, or any research activities that are described in codes 3826, 3829, or 3841 to 3845, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, or any other biotechnology research and development activities, the provisions of Section 41(e)(6) of the Internal Revenue Code shall be modified to include both of the following:

(A) A qualified organization as described in Section 170(b)(1)(A)(iii) of the Internal Revenue Code and owned by an institution of higher education as described in Section 3304(f) of the Internal Revenue Code.

(B) A charitable research hospital owned by an organization that is described in Section 501(c)(3) of the Internal Revenue Code, is exempt from taxation under Section 501(a) of the Internal Revenue Code, is not a private foundation, is designated a “specialized laboratory cancer center,” and has received Clinical Cancer Research Center status from the National Cancer Institute.

(2) For purposes of this subdivision:

(A) “Biopharmaceutical research activities” means those activities that use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms
to make commercial products, as opposed to pharmaceutical activities that make use of chemical compounds to produce commercial products.

(B) “Other biotechnology research and development activities” means research and development activities consisting of the application of recombinant DNA technology to produce commercial products, as well as research and development activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(f) In the case where the credit allowed by this section exceeds the “tax,” the excess may be carried over to reduce the “tax” in the following year, and succeeding years if necessary, until the credit has been exhausted.

(g) For each taxable year beginning on or after January 1, 1998, the reference to “Section 501(a)” in Section 41(b)(3)(C) of the Internal Revenue Code, relating to contract research expenses, is modified to read “this part or Part 10 (commencing with Section 17001).”

(h) (1) For each taxable year beginning on or after January 1, 2000:
   (A) The reference to “2.65 percent” in Section 41(c)(4)(A)(i) of the Internal Revenue Code is modified to read “one and forty-nine hundredths of one percent.”
   (B) The reference to “3.2 percent” in Section 41(c)(4)(A)(ii) of the Internal Revenue Code is modified to read “one and ninety-eight hundredths of one percent.”
   (C) The reference to “3.75 percent” in Section 41(c)(4)(A)(iii) of the Internal Revenue Code is modified to read “two and forty-eight hundredths of one percent.”

(2) Section 41(c)(4)(B) shall not apply and in lieu thereof an election under Section 41(c)(4)(A) of the Internal Revenue Code may be made for any taxable year of the taxpayer beginning on or after January 1, 1998. That election shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Franchise Tax Board.

(i) Section 41(c)(6) of the Internal Revenue Code, relating to gross receipts, is modified to take into account only those gross receipts from the sale of property held primarily for sale to customers in the ordinary course of the taxpayer’s trade or business that is delivered or shipped to a purchaser within this state, regardless of f.o.b. point or any other condition of the sale.

(i) Section 41(h) of the Internal Revenue Code, relating to termination, shall not apply.

(j) Section 41(g) of the Internal Revenue Code, relating to special rule for passthrough of credit, is modified by each of the following:
   (1) The last sentence shall not apply.
(2) If the amount determined under Section 41(a) of the Internal Revenue Code for any taxable year exceeds the limitation of Section 41(g) of the Internal Revenue Code, that amount may be carried over to other taxable years under the rules of subdivision (f), except that the limitation of Section 41(g) of the Internal Revenue Code shall be taken into account in each subsequent taxable year.

SEC. 39. Section 23701s of the Revenue and Taxation Code is amended to read:

23701s. (a) An employee-funded pension trust described in Section 501(c)(18) of the Internal Revenue Code, except as otherwise provided.

(b) The last sentence in Section 501(c)(18) of the Internal Revenue Code, as amended by Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16), relating to excess contributions under Section 4979, shall not apply.

SEC. 40. Section 23705 of the Revenue and Taxation Code is amended to read:

23705. (a) (1) An organization described in Section 23701i (voluntary employee’s beneficiary associations) or 23701q (qualified group legal service plans) which is part of a plan of an employer shall not be exempt from tax under Section 23701, unless that plan meets the requirements of Section 505(b) of the Internal Revenue Code, as amended by Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16).

(2) Paragraph (1) shall not apply to any organization described in Section 505(a)(2) of the Internal Revenue Code.

(b) A copy of any notice filed with the Secretary of the Treasury, pursuant to Section 505(c) of the Internal Revenue Code, relating to application for tax-exempt status, shall be filed at the same time and in the same manner with the Franchise Tax Board.

SEC. 41. Section 23711 of the Revenue and Taxation Code is amended to read:

23711. Section 529 of the Internal Revenue Code, as amended by Section 402 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and Section 417 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147), relating to qualified state tuition programs, shall apply, except as otherwise provided.

(a) Section 529(a) of the Internal Revenue Code is modified as follows:

(1) By substituting the phrase “under Part 10 (commencing with Section 17001) and this part” in lieu of the phrase “under this subtitle.”

(2) By substituting “Article 2 (commencing with Section 23731)” in lieu of “section 511.”
(b) A copy of the report required to be filed with the Secretary of the Treasury under Section 529(d) of the Internal Revenue Code shall be filed with the Franchise Tax Board at the same time and in the same manner as specified in that section.

SEC. 42. Section 23712 of the Revenue and Taxation Code is amended to read:

23712. Section 530 of the Internal Revenue Code, as amended by Sections 401 and 402 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and Section 411 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147), relating to education individual retirement accounts, shall apply, except as otherwise provided.

(a) Section 530(a) of the Internal Revenue Code is modified as follows:

(1) By substituting the phrase “under Part 10 (commencing with Section 17001) and this part” in lieu of the phrase “under this subtitle.”

(2) By substituting “Article 2 (commencing with Section 23731)” in lieu of “section 511.”

(b) For taxable years beginning before January 1, 2002, Section 530(b)(1) of the Internal Revenue Code, relating to the definition of education individual retirement account, is modified to additionally require that upon the date that the designated beneficiary becomes 30 years of age, any balance to the credit of the beneficiary shall be distributed within 30 days after the date the beneficiary becomes 30 years of age to that beneficiary.

(c) Section 530(d) of the Internal Revenue Code is modified as follows:

(1) By substituting the phrase “under Part 10 (commencing with Section 17001) in the manner as provided in Section 72(b) of the Internal Revenue Code, as modified by Part 10” in lieu of the phrase “in the manner as provided in Section 72(b)” in Section 530(d)(1) of the Internal Revenue Code.

(2) (A) A taxpayer that has elected to waive the application of Section 530(d)(2) of the Internal Revenue Code for federal income tax purposes shall be treated as having waived the application of that paragraph for state purposes, a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5 or paragraph (3) of subdivision (e) of Section 23051.5, and the federal election shall be binding for purposes of Part 10 (commencing with Section 17001) and this part.

(B) If a taxpayer fails to make an election under Section 530(d)(2)(C) of the Internal Revenue Code for federal income tax purposes to waive the application of Section 530(d)(2) of the Internal Revenue Code, an election under Section 530(d)(2)(C) of the Internal Revenue Code shall
not be allowed for state purposes, Section 530(d)(2)(A) and (B) of the Internal Revenue Code shall apply for state purposes, and a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5.

(3) (A) By substituting the phrase “tax imposed by Part 10 (commencing with Section 17001)” in lieu of the phrase “tax imposed by this chapter” in Section 530(d)(4)(A) of the Internal Revenue Code.

(B) By substituting the phrase “increased by 2 1/2 percent” in lieu of the phrase “increased by 10 percent” in Section 530(d)(4)(A) of the Internal Revenue Code.

(C) By substituting the phrase “shall be included in the contributor’s gross income under Part 10 (commencing with Section 17001) or this part” in lieu of the phrase “shall be included in gross income” in Section 530(d)(4)(C) of the Internal Revenue Code.

(d) For purposes of Part 10 (commencing with Section 17001) and this part, in the case of a custodial account treated as a trust by reason of Section 530(g) of the Internal Revenue Code, the custodian of that account shall be treated as the trustee thereof.

(e) A copy of the report, which is required to be filed with the Secretary of the Treasury under Section 530(h) of the Internal Revenue Code, shall be filed with the Franchise Tax Board at the same time and in the same manner as specified in that section.

SEC. 43. Section 23801 of the Revenue and Taxation Code is amended to read:

23801. (a) Except as otherwise provided, a corporation that has in effect for federal purposes a valid election under Section 1362(a) of the Internal Revenue Code shall be an “S” corporation for purposes of Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), and this part.

(b) A corporation that is an “S corporation” for federal income tax purposes, shall be an “S corporation” for purposes of Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), and this part, and its shareholders shall be shareholders of an “S corporation” without regard to whether the corporation is qualified to do business or is incorporated in this state.

(c) Notwithstanding subdivision (a), a corporation that elects “S corporation” status under Section 1362 of the Internal Revenue Code for federal income tax purposes but which is not qualified to be an “S corporation” under subdivision (a) of Section 23800.5, shall not be an “S corporation” for purposes of Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), and this part.

(d) Except as provided in subdivision (e), a corporation that is an “S corporation” for purposes of this part shall not be included in a combined report pursuant to Chapter 17 (commencing with Section 25101).
(e) (1) In cases where the Franchise Tax Board determines that the reported income or loss of a group of commonly owned or controlled corporations (within the meaning of Section 25105), which includes one or more corporations treated as an “S corporation” under Chapter 4.5 (commencing with Section 23800), does not clearly reflect income (or loss) of a member of that group or represents an evasion of tax by one or more members of that group, and the Franchise Tax Board determines that the comparable uncontrolled price method prescribed by regulations pursuant to Section 482 of the Internal Revenue Code cannot practically be applied, the Franchise Tax Board may, in lieu of other methods prescribed by regulations pursuant to Section 482 of the Internal Revenue Code, apply methods of unitary combination, pursuant to Article 1 (commencing with Section 25101) of Chapter 17, to properly reflect the income or loss of the members of the group.

(2) The application of the provisions of this subdivision shall not affect the treatment of any corporation as an “S corporation.”

(f) The tax for a “C corporation” for a short year shall be determined in accordance with Chapter 13 (commencing with Section 24631), in lieu of Section 1362(e)(5) of the Internal Revenue Code.

(g) (1) A termination of a federal election pursuant to Section 1362(d) of the Internal Revenue Code, that is not an inadvertent termination pursuant to Section 1362(f) of the Internal Revenue Code, shall simultaneously terminate the “S corporation” election for purposes of Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), and this part.

(2) A federal termination by revocation shall be effective for purposes of this part and shall be reported to the Franchise Tax Board in the form and manner prescribed by the Franchise Tax Board no later than the last date allowed for filing federal termination for that year under Section 1362(d) of the Internal Revenue Code.

(h) For taxable years beginning on or after January 1, 1997, for purposes of subparagraph (F) of paragraph (4) of subdivision (a) of this section and Section 1362(g) of the Internal Revenue Code, relating to election after termination, any termination under Section 1362(d) of the Internal Revenue Code or election to be treated as a “C corporation” under subparagraph (A) or (C) of paragraph (4) of subdivision (a), or to terminate by revocation under paragraph (3) of subdivision (f) in a taxable year beginning before January 1, 1997, shall not be taken into account.

(i) (1) The provisions of Section 1362(b)(5) of the Internal Revenue Code, relating to authority to treat late elections, etc., as timely, shall apply only for taxable years beginning on or after January 1, 1997, with respect to elections under Section 1362(a) of the Internal Revenue Code for taxable years beginning on or after January 1, 1997.
(2) Notwithstanding the provisions of paragraph (1), if for any taxable year beginning on or after January 1, 1987, a corporation fails to qualify as an “S corporation” for federal income tax purposes solely because the federal Form 2553 (Election by a Small Business Corporation) was not filed timely, the corporation shall be treated for purposes of this part as an “S corporation” for the taxable year the “S corporation” election should have been made, and for each subsequent year until terminated, if both of the following conditions are met:

(A) The corporation and all of its shareholders reported their income for California tax purposes on original returns consistent with “S corporation” status for the year the “S corporation” election should have been made, and for each subsequent taxable year (if any) until terminated.

(B) The corporation and its shareholders have filed with the Internal Revenue Service a federal Form 2553 requesting automatic relief with respect to the late “S corporation” election, in full compliance with the federal Revenue Procedure 1997-48, I.R.B. 1997-43, and have received notification of the acceptance of the untimely filed “S corporation” election from the Internal Revenue Service. A copy of the notification shall be provided to the Franchise Tax Board upon request.

(j) The provisions of Section 1362(f) of the Internal Revenue Code, relating to inadvertent invalid elections or terminations, shall apply only for taxable years beginning on or after January 1, 1997, with respect to elections under Section 1362(a) of the Internal Revenue Code for taxable years beginning on or after January 1, 1997.

SEC. 44. Section 23802 of the Revenue and Taxation Code is amended to read:

23802. (a) Section 1363(a) of the Internal Revenue Code, relating to the taxability of an “S corporation,” shall not be applicable.

(b) Corporations qualifying under this chapter shall continue to be subject to the taxes imposed under Chapter 2 (commencing with Section 23101) and Chapter 3 (commencing with Section 23501), except as follows:

(1) The tax imposed under Section 23151 or 23501 shall be imposed at a rate of 1 1/2 percent rather than the rate specified in those sections.

(2) In the case of an “S corporation” which is also a financial corporation, the rate of tax specified in paragraph (1) shall be increased by the excess of the rate imposed under Section 23183 over the rate imposed under Section 23151.

(c) An “S corporation” shall be subject to the minimum franchise tax imposed under Section 23153.

(d) (1) For purposes of subdivision (b), an “S corporation” shall be allowed a deduction under Section 24416 or 24416.1 (relating to net operating loss deductions), but only with respect to losses incurred
during periods in which the corporation is an “S corporation” for purposes of this part.

(2) Section 1371(b) of the Internal Revenue Code, relating to denial of carryovers between “C years” and “S years,” shall apply for purposes of the tax imposed under subdivision (b), except as provided in paragraph (1).

(3) The provisions of this subdivision shall not affect the amount of any item of income or loss computed in accordance with the provisions of Section 1366 of the Internal Revenue Code, relating to passthrough items to shareholders.

(4) For purposes of subdivision (b) of Section 17276, relating to limitations on loss carryovers, losses passed through to shareholders of an “S corporation,” to the extent otherwise allowable without application of that subdivision, shall be fully included in the net operating loss of that shareholder and then that subdivision shall be applied to the entire net operating loss.

(e) For purposes of computing the taxes specified in subdivision (b), an “S corporation” shall be allowed a deduction from income for built-in gains and passive investment income for which a tax has been imposed under this part in accordance with the provisions of Section 1374 of the Internal Revenue Code, relating to tax imposed on certain built-in gains, or Section 1375 of the Internal Revenue Code, relating to tax imposed on passive investment income.

(f) For purposes of computing taxes imposed under this part, as provided in subdivision (b):

(1) An “S corporation” shall compute its deductions for amortization and depreciation in accordance with the provisions of Part 10 (commencing with Section 17001) of Division 2.

(2) The provisions of Section 465 of the Internal Revenue Code, relating to limitation of deductions to the amount at risk, shall be applied in the same manner as in the case of an individual.

(3) (A) The provisions of Section 469 of the Internal Revenue Code, relating to limitations on passive activity losses and credits, shall be applied in the same manner as in the case of an individual. For purposes of the tax imposed under Section 23151 or 23501, as modified by this section, material participation shall be determined in accordance with Section 469(h) of the Internal Revenue Code, relating to certain closely held “C corporations” and personal service corporations.

(B) For purposes of this paragraph, the “adjusted gross income” of the “S corporation” shall be equal to its “net income,” as determined under Section 24341 with the modifications required by this subdivision, except that no deduction shall be allowed for contributions allowed by Section 24357.
(4) The exclusion provided under Section 18152.5 shall not be allowed to an “S corporation.”

(g) The provisions of Section 1363(d) of the Internal Revenue Code, relating to recapture of LIFO benefits, shall be modified for purposes of this part to refer to Section 19101 in lieu of Section 6601 of the Internal Revenue Code.

SEC. 45. Section 23811 of the Revenue and Taxation Code is amended to read:

23811. Except as otherwise provided in this section, there is hereby imposed a tax on passive investment income attributable to California sources, determined in accordance with the provisions of Section 1375 of the Internal Revenue Code, relating to tax imposed on passive investment income, as modified by this section.

(a) The tax imposed under this section shall not be imposed on an “S corporation” that has no excess net passive income for federal income tax purposes determined in accordance with Section 1375 of the Internal Revenue Code.

(b) (1) The rate of tax shall be equal to the rate of tax imposed under Section 23151 in lieu of Section 11(b) of the Internal Revenue Code.

(2) In the case of an “S corporation” which is also a financial corporation, the rate of tax specified in paragraph (1) shall be increased by the excess of the rate imposed under Section 23183 over the rate imposed under Section 23151.

(c) The provisions of Section 1375(c)(1) of the Internal Revenue Code, relating to credits, shall be modified to provide that the tax imposed under subdivision (a) shall not be reduced by any credits allowed under this part.

(d) The term “subchapter C earnings and profits” as used in Sections 1362(d)(3) and 1375 of the Internal Revenue Code shall mean the subchapter C earnings and profits of the corporation attributable to California sources determined under this part, modified as provided in subdivision (e).

(e) (1) In the case of a corporation which is an “S corporation” for purposes of this part for its first taxable year for which it has in effect a valid federal S election, there shall be allowed as a deduction in determining that corporation’s subchapter C earnings and profits at the close of any taxable year the amount of any consent dividend (as provided in paragraph (2)) paid after the close of that taxable year.

(2) In the event there is a determination that a corporation described in paragraph (1) has subchapter C earnings and profits at the close of any taxable year, that corporation shall be entitled to distribute a consent dividend to its shareholders. The amount of the consent dividend shall not exceed the difference between the corporation’s subchapter C earnings and profits determined under subdivision (d) at the close of the
taxable year with respect to which the determination is made and the corporation’s subchapter C earnings and profits for federal income tax purposes at the same date. A consent dividend must be paid within 90 days of the date of the determination that the corporation has subchapter C earnings and profits. For this purpose, the date of a determination means the effective date of a closing agreement pursuant to Section 19441, the date an assessment of tax imposed by this section becomes final, or the date of execution by the corporation of an agreement with the Franchise Tax Board relating to liability for the tax imposed by this section. For purposes of Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), and this part, a corporation must make the election provided in Section 1368(e)(3) of the Internal Revenue Code.

(3) If a corporation distributes a consent dividend, it shall claim the deduction provided in paragraph (1) by filing a claim therefor with the Franchise Tax Board within 120 days of the date of the determination specified in paragraph (2).

(4) The collection of tax imposed by this section from a corporation described in paragraph (2) shall be stayed for 120 days after the date of the determination specified in paragraph (2). If a claim is filed pursuant to paragraph (3), collection of that tax shall be further stayed until the date the claim is acted upon by the Franchise Tax Board.

(5) If a claim is filed pursuant to paragraph (3), the running of the statute of limitations on the making of assessments and actions for collection of the tax imposed by this section shall be suspended for a period of two years after the date of the determination specified in paragraph (2).

SEC. 46. Section 24306 of the Revenue and Taxation Code is amended to read:

24306. (a) For purposes of this section, the following terms have the following meanings, as provided in the Golden State Scholarshare Trust Act (Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code):

(1) “Beneficiary” has the meaning set forth in subdivision (c) of Section 69980 of the Education Code.

(2) “Benefit” has the meaning set forth in subdivision (d) of Section 69980 of the Education Code.

(3) “Participant” has the meaning set forth in subdivision (h) of Section 69980 of the Education Code.

(4) “Participation agreement” has the meaning set forth in subdivision (i) of Section 69980 of the Education Code.

(5) “Scholarshare trust” has the meaning set forth in subdivision (f) of Section 69980 of the Education Code.
(b) Except as otherwise provided in subdivision (c), gross income of a participant shall not include any of the following:

(1) Any earnings under a Scholarshare trust, or a participation agreement, as provided in Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code.

(2) Contributions to the Scholarshare trust on behalf of a beneficiary shall not be includable as gross income of that beneficiary.

(c) (1) Any distribution under a Scholarshare trust participation agreement shall be includable in the gross income of the distributee in the manner as provided under Section 72 of the Internal Revenue Code, as modified by Section 24272.2, to the extent not excluded from gross income under any other provision of this part. For purposes of applying Section 72 of the Internal Revenue Code, the following apply:

(A) All Scholarshare trust accounts of which an individual is a beneficiary shall be treated as one account, except as otherwise provided.

(B) All distributions during a taxable year shall be treated as one distribution.

(C) The value of the participation agreement, income on the participation agreement, and investment in the participation agreement shall be computed as of the close of the calendar year in which the taxable year begins.

(2) A contribution by a for-profit or nonprofit entity, or by a state or local government agency, for the benefit of an owner or employee of that entity or a beneficiary whom the owner or employee has the power to designate, including the owner or employee’s minor children, shall be included in the gross income of that owner or employee in the year the contribution is made.

(3) For purposes of this subdivision, “distribution” includes any benefit furnished to a beneficiary under a participation agreement, as provided in Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code.

(4) (A) Paragraph (1) shall not apply to that portion of any distribution that, within 60 days of distribution, is transferred to the credit of another beneficiary under the Scholarshare trust who is a “member of the family,” as that term is used in Section 529(e)(2) of the Internal Revenue Code, as amended by Section 211 of the Taxpayer Relief Act of 1997 (Public Law 105-34), of the former beneficiary of that Scholarshare trust.

(B) Any change in the beneficiary of an interest in the Scholarshare trust shall not be treated as a distribution for purposes of paragraph (1) if the new beneficiary is a “member of the family,” as that term is used in Section 2032A(e)(2) of the Internal Revenue Code, of the former beneficiary of that Scholarshare trust.
(d) For taxable years beginning on or after January 1, 2002, Sections 529(c) and 529(e) of the Internal Revenue Code, as amended by Section 402 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and Section 417 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147), shall apply in lieu of subdivisions (b) and (c) of this section.

SEC. 47. Section 24307 of the Revenue and Taxation Code is amended to read:

24307. (a) Section 108 of the Internal Revenue Code, relating to income from discharge of indebtedness, shall apply, except as otherwise provided.

(b) Section 108(b)(2)(B) of the Internal Revenue Code, relating to general business credit, is modified by substituting “this part” in lieu of “Section 38 (relating to general business credit).”

(c) Section 108(b)(2)(G) of the Internal Revenue Code, relating to foreign tax credit carryovers, shall not apply.

(d) Section 108(b)(3)(B) of the Internal Revenue Code, relating to credit carryover reduction, is modified by substituting “11.1 cents” in lieu of “33\frac{1}{3} cents” in each place in which it appears. In the case where more than one credit is allowable under this part, the credits shall be reduced on a pro rata basis.

(e) Section 108(g)(3)(B) of the Internal Revenue Code, relating to adjusted tax attributes, is modified by substituting “$9” in lieu of “$3.”

(f) (1) The amendments to Section 108 of the Internal Revenue Code made by Section 13150 of the Revenue Reconciliation Act of 1993 (Public Law 103-66), relating to exclusion from gross income for income from discharge of qualified real property business indebtedness, shall apply to discharges occurring on or after January 1, 1996, in taxable years beginning on or after January 1, 1996.

(2) If a taxpayer makes an election for federal income tax purposes under Section 108(c) of the Internal Revenue Code, relating to treatment of discharge of qualified real property business indebtedness, a separate election shall not be allowed under paragraph (3) of subdivision (e) of Section 23051.5 and the federal election shall be binding for purposes of this part.

(3) If a taxpayer has not made an election for federal income tax purposes under Section 108(c) of the Internal Revenue Code, relating to treatment of discharge of qualified real property business indebtedness, then the taxpayer shall not be allowed to make that election for purposes of this part.

(g) The amendments to Section 108 of the Internal Revenue Code made by Section 13226 of the Revenue Reconciliation Act of 1993 (Public Law 103-66), relating to modifications of discharge of
indebtedness provisions, shall apply to discharges occurring on or after January 1, 1996, in taxable years beginning on or after January 1, 1996.

(h) The amendments made to Section 108(d)(7)(A) of the Internal Revenue Code, relating to certain provisions to be applied at the corporate level by Section 402 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147), shall apply to discharges of indebtedness after December 31, 2001, in taxable years ending after that date. This subdivision shall not apply to any discharge of indebtedness made before March 1, 2002, pursuant to a plan of reorganization filed with a bankruptcy court on or before October 11, 2001.

SEC. 48. Section 24343.7 of the Revenue and Taxation Code is amended to read:

24343.7. Section 162(k)(2)(A)(ii) of the Internal Revenue Code shall not apply.

SEC. 49. Section 24357 of the Revenue and Taxation Code is amended to read:

24357. (a) There shall be allowed as a deduction any charitable contribution (as defined in Section 24359) payment of which is made within the taxable year. A charitable contribution shall be allowable as a deduction only if verified under regulations prescribed by the Franchise Tax Board.

(b) (1) In the case of a corporation reporting its income on the accrual basis, the corporation may elect to treat the contribution as paid during that taxable year if both of the following occur:

(A) The board of directors authorizes a charitable contribution during the taxable year.

(B) Payment of the contribution is made after the close of that taxable year and on or before the 15th day of the third month following the close of the taxable year.

(2) The election allowed by paragraph (1) may be made only at the time of the filing of the return for the taxable year, and shall be signified in the manner as the Franchise Tax Board shall by regulations prescribe.

(c) For purposes of this section, payment of a charitable contribution that consists of a future interest in tangible personal property shall be treated as made only when all intervening interests in, and rights to the actual possession or enjoyment of, the property have expired or are held by persons other than the taxpayer or those standing in a relationship to the taxpayer described in Section 24428. For purposes of the preceding sentence, a fixture which is intended to be severed from the real property shall be treated as tangible personal property.

(d) No deduction shall be allowed under this section for traveling expenses (including amounts expended for meals and lodging) while away from home, whether paid directly or by reimbursement, unless
there is no significant element of personal pleasure, recreation, or vacation in that travel.

(e) (1) Section 170(f)(8) of the Internal Revenue Code, relating to substantiation requirement for certain contributions, shall apply, except as otherwise provided.

(2) No deduction shall be denied under Section 170(f)(8) of the Internal Revenue Code, relating to substantiation requirement for certain contributions, upon a showing that the requirements in Section 170(f)(8) of the Internal Revenue Code have been met with respect to that contribution for federal purposes.

(f) Section 170(f)(9) of the Internal Revenue Code, relating to the denial of the deduction for lobbying activities shall apply, except as otherwise provided.

SEC. 50. Section 24357.9 of the Revenue and Taxation Code is amended to read:

24357.9. (a) In the case of a qualified computer contribution, the amount otherwise allowed as a deduction under Section 24357 shall be reduced by that amount of the reduction provided by Section 24357.1 that is no greater than the sum of the following:

(1) One-half of the amount computed pursuant to Section 24357.1 (computed without regard to this paragraph).

(2) The amount (if any) by which the charitable contribution deduction under this section for any qualified computer contribution (computed by taking into account the amount determined by paragraph (1), but without regard to this paragraph) exceeds twice the basis of the property.

(b) For purposes of this section, the term “qualified computer contribution” means a charitable contribution by a corporation of any computer technology or equipment, but only if all of the following apply:

(1) The contribution is to either of the following:

(A) An educational organization described in Section 170(b)(1)(A)(ii) of the Internal Revenue Code.

(B) An entity described in Section 23701d and exempt from tax under Section 23701 (other than an entity described in subparagraph (A)) that is organized primarily for purposes of supporting elementary and secondary education in California.

(C) A public library (as described in Section 170(e)(6)(B)(i)(III) of the Internal Revenue Code).

(2) The contribution is made not later than three years after the date the taxpayer acquired the property (or in the case of property constructed by the taxpayer, the date the construction of the property is substantially completed).

(3) The original use of the property is by the donor or the donee.
(4) Substantially all of the use of the property by the donee is for use within California for educational purposes in any of the grades K through 12 that are related to the purpose or function of the organization or entity.

(5) The property is not transferred by the donee in exchange for money, other property, or services, except for shipping, installation, and transfer of costs.

(6) The property will fit productively into the entity’s educational plan.

(7) The entity’s use and disposition of the property will be in accordance with paragraphs (4) and (5).

(8) The property meets the standards, if any, as the Secretary of the Treasury may have prescribed by regulation under Section 170(e)(6) of the Internal Revenue Code to assure that the property meets minimum functionality and suitability standards for educational purposes.

(c) A contribution by a corporation of any computer technology or equipment to a private foundation (as defined in Section 509 of the Internal Revenue Code) shall be treated as a qualified computer contribution for purposes of this section if both of the following apply:

(1) The contribution to the private foundation satisfies the requirements of paragraphs (2) and (5) of subdivision (b).

(2) Within 30 days after that contribution, the private foundation does both of the following:

(A) Contributes the property to an entity described in paragraph (1) of subdivision (b) that satisfies the requirements of paragraphs (4) to (7), inclusive, of subdivision (b).

(B) Notifies the donor of that contribution.

(d) In the case of property that is reacquired by the person who constructed the property, both of the following shall apply:

(1) Paragraph (2) of subdivision (b) shall be applied to a contribution of that property by that person by taking into account the date that the original construction of the property was substantially completed.

(2) Paragraph (3) of subdivision (b) shall not apply to that contribution.

(e) For purposes of this section, property shall be treated as constructed by the taxpayer only if the cost of the parts used in the construction of that property (other than parts manufactured by the taxpayer or a related person) do not exceed 50 percent of the taxpayer’s basis in that property.

(f) For purposes of this section:

(1) “Computer technology or equipment” means computer software (as defined by Section 197(e)(3)(B) of the Internal Revenue Code), computer or peripheral equipment (as defined by Section 168(i)(2)(B)
of the Internal Revenue Code), and fiber-optic cable related to computer use.

(2) “Corporation” shall not include any of the following:
   (A) An “S corporation.”
   (B) A personal holding company (as defined in Section 542 of the Internal Revenue Code).
   (C) A service organization (as defined in Section 414(m)(3) of the Internal Revenue Code).

(g) (1) This section shall not apply to any contribution made during any taxable year beginning on or after January 1, 2000, and before December 31, 2001.
(2) This section shall not apply to any contributions made during any taxable year beginning after December 31, 2003.

SEC. 51. Section 24424 of the Revenue and Taxation Code is repealed.

SEC. 52. Section 24424 is added to the Revenue and Taxation Code, to read:

24424. Section 264 of the Internal Revenue Code, relating to certain amounts paid in connection with insurance contracts, shall apply, except as otherwise provided.

SEC. 53. Section 24443 of the Revenue and Taxation Code is amended to read:

24443. Section 274 of the Internal Revenue Code, relating to the disallowance of certain entertainment, gift, travel, etc., expenses, shall apply, except as otherwise provided.

SEC. 54. Section 24661.3 is added to the Revenue and Taxation Code, to read:

24661.3. (a) (1) The options under Sections 112(d)(2) and 112(d)(3) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. Sec. 7212(d)(2) and (3)), as in effect on October 12, 1998, shall be disregarded in determining the taxable year for which any payment under a production flexibility contract under Subtitle B of Title I of that act (as so in effect) is properly includable in gross income for purposes of this part, Part 10 (commencing with Section 17001), or Part 10.2 (commencing with Section 18401).
(2) In order to provide farmers with the same tax treatment for all payments in years beginning before January 1, 2002, with respect to production flexibility contract payments as provided under federal law as modified by Public Law 105-277, this subdivision shall apply to taxable years ending after December 31, 1995.
(b) Any option to accelerate the receipt of any payment under a production flexibility contract entered into on or after January 1, 2002, that is payable under the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. Sec. 7200 et seq.) as in effect on December 17,
1999, shall be disregarded in determining the taxable year for which that payment is properly includable in gross income for purposes of this part, Part 10 (commencing with Section 17001), or Part 10.2 (commencing with Section 18401).

SEC. 55. Section 24667 of the Revenue and Taxation Code is amended to read:

24667. (a) (1) Sections 453, 453A, and 453B of the Internal Revenue Code, relating to installment method, special rules for nondealers, and gain or loss on disposition of installment obligations, respectively, shall apply, except as otherwise provided.

(2) Sections 811(c)(4), 811(c)(6), and 811(c)(7) of Public Law 99-514, as modified by Section 1008(f) of Public Law 100-647, shall apply to each taxable year beginning on or after January 1, 1988.

(3) Section 812 of Public Law 99-514, relating to the disallowance of use of the installment method for certain obligations, as modified by Section 1008(g) of Public Law 100-647, shall apply to each taxable year beginning on or after January 1, 1988.

(b) For purposes of subdivision (a), any references in the Internal Revenue Code to sections that have not been incorporated into this part by reference shall be deemed to refer to the corresponding section, if any, of this part.

(c) In the case of any taxpayer who made sales under a revolving credit plan and was on the installment method under former Section 24667 or 24668 for the taxpayer’s last taxable year beginning before January 1, 1988, the provisions of this section shall be treated as a change in method of accounting for the first taxable year beginning after December 31, 1987, and all of the following shall apply:

(1) That change shall be treated as initiated by taxpayer.

(2) That change shall be treated as having been made with the consent of the Franchise Tax Board.

(3) The period for taking into account adjustments under Article 6 (commencing with Section 24721) by reason of that change shall not exceed four years.

(d) The repeal of Section 453C of the Internal Revenue Code by Section 10202(a) of Public Law 100-203, relating to repeal of the proportionate disallowance of the installment method, shall apply to dispositions on or after January 1, 1990, in taxable years beginning on or after January 1, 1990.

(e) (1) In the case of any installment obligations to which Section 453(f)(2)(B) of the Internal Revenue Code applies, in lieu of the provisions of Section 453(f)(3)(A) of the Internal Revenue Code, the “tax” (as defined by subdivision (a) of Section 23036) for any taxable year for which payment is received on that obligation shall be increased
by the amount of interest determined in the manner provided under
Section 453(f)(3)(B) of the Internal Revenue Code.

(2) Sections 10202 and 10204 of Public Law 100-203, are modified
to provide for each of the following:

(A) Section 10202 shall apply to dispositions in taxable years
beginning on or after January 1, 1990.

(B) Section 10204 shall apply to costs incurred in taxable years
beginning on or after January 1, 1990.

(C) Any adjustments required by Section 481 of the Internal Revenue
Code shall be included in gross income as follows:

(i) Fifty percent in the first taxable year beginning on or after January
1, 1990.

(ii) Fifty percent in the second taxable year beginning on or after
January 1, 1990.

(f) (1) The amendments to Section 453A of the Internal Revenue
Code made by Section 2004 of Public Law 100-647, relating to special
rules for nondealers, shall apply to each taxable year beginning on or
after January 1, 1990.

(2) In the case of any installment obligation to which Section 453A
of the Internal Revenue Code applies and which is outstanding as of the
close of the taxable year, in lieu of the provisions of Section 453A(c)(1)
of the Internal Revenue Code, the “tax” (as defined by subdivision (a)
of Section 23036) for the taxable year shall be increased by the amount
of interest determined in the manner provided under Section 453A(c)(2)
of the Internal Revenue Code.

(3) The provisions of Section 453A(c)(3)(B) of the Internal Revenue
Code, relating to the maximum rate used in calculating the deferred tax
liability, are modified to refer to the maximum rate of tax imposed under
Section 23151, 23186, or 23802, whichever applies, in lieu of the
maximum rate of tax imposed under Section 1 or 11 of the Internal
Revenue Code.

(g) (1) The last sentence of Section 453A(d)(4) of the Internal
Revenue Code, relating to secured indebtedness, shall not apply.

(2) This subdivision shall apply to sales or other dispositions
occurring on or after January 1, 2002.

SEC. 56. Section 24685.5 is added to the Revenue and Taxation
Code, to read:

24685.5. (a) The amendment made by Section 7001(a) of the
Internal Revenue Service Restructuring and Reform Act of 1998 (Public
Law 105-206) to Section 404(a)(11) of the Internal Revenue Code,
regarding determinations relating to deferred compensation, shall apply
to taxable years beginning on or after January 1, 2002.

(b) In the case of any taxpayer required by enactment of this section
to change its method of accounting, for that taxpayer’s first taxable year
beginning on or after January 1, 2002, each of the following shall apply for purposes of this part, Part 10 (commencing with Section 17001), and Part 10.2 (commencing with Section 18401):

(1) The change shall be treated as initiated by the taxpayer.

(2) The change shall be treated as made with the consent of the Franchise Tax Board.

(3) The net amount of the adjustments required to be taken into account by the taxpayer under Chapter 13 (commencing with Section 24631) shall be taken into account ratably over the three taxable year period beginning with that taxpayer’s first taxable year beginning on or after January 1, 2002.

SEC. 57. Section 24710 of the Revenue and Taxation Code is amended to read:

24710. (a) For each taxable year beginning on or after January 1, 1997, Section 475 of the Internal Revenue Code, relating to mark to market accounting method for securities dealers, shall apply, except as otherwise provided.

(b) Section 13233(c)(2)(C) of the Revenue Reconciliation Act of 1993 (Public Law 103-66), relating to the effective date for changes in the mark to market accounting method for securities dealers, is modified to provide that the amount taken into account under Section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the five-taxable-year period beginning with the first taxable year beginning on or after January 1, 1997.

(c) (1) If a taxpayer has, at any time, made an election for federal purposes under Section 475(e) of the Internal Revenue Code, relating to election of mark to market for dealers in commodities, to have Section 475 of the Internal Revenue Code apply, Section 475 of the Internal Revenue Code shall apply to that dealer in commodities for state purposes, a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 23051.5, and the federal election shall be binding for purposes of this part.

(2) If a taxpayer fails to make, or has not previously made, an election for federal purposes under Section 475(e) of the Internal Revenue Code, relating to election of mark to market for dealers in commodities, to have Section 475 of the Internal Revenue Code apply, an election under Section 475(e) of the Internal Revenue Code shall not be allowed for state purposes, Section 475 of the Internal Revenue Code shall not apply to that dealer in commodities for state purposes, and a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 23051.5.

(d) (1) If a taxpayer has, at any time, made an election for federal purposes under Section 475(f)(1) of the Internal Revenue Code, relating to election of mark to market for traders in securities, to have Section 475
of the Internal Revenue Code apply to a trade or business, Section 475 of the Internal Revenue Code shall apply to that trader in securities for state purposes with respect to that trade or business, a separate election for state purposes with respect to that trade or business shall not be allowed under paragraph (3) of subdivision (e) of Section 23051.5, and the federal election shall be binding for purposes of this part.

(2) If a taxpayer fails to make, or has not previously made, an election for federal purposes under Section 475(f)(1) of the Internal Revenue Code, relating to election of mark to market for traders in securities, to have Section 475 of the Internal Revenue Code apply to a trade or business, an election under Section 475(f)(1) of the Internal Revenue Code shall not be allowed for state purposes with respect to that trade or business, Section 475 of the Internal Revenue Code shall not apply to that trader in securities for state purposes with respect to that trade or business, and a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 23051.5.

(e) (1) If a taxpayer has, at any time, made an election for federal purposes under Section 475(f)(2) of the Internal Revenue Code, relating to election of mark to market for traders in commodities, to have Section 475 of the Internal Revenue Code apply to a trade or business, Section 475 of the Internal Revenue Code shall apply to that trader in commodities for state purposes with respect to that trade or business, a separate election for state purposes with respect to that trade or business shall not be allowed under paragraph (3) of subdivision (e) of Section 23051.5, and the federal election with respect to that trade or business shall be binding for purposes of this part.

(2) If a taxpayer fails to make, or has not previously made, an election for federal purposes under Section 475(f)(2) of the Internal Revenue Code, relating to election of mark to market for traders in commodities, to have Section 475 of the Internal Revenue Code apply to a trade or business, an election under Section 475(f)(2) of the Internal Revenue Code shall not be allowed for state purposes with respect to that trade or business, Section 475 of the Internal Revenue Code shall not apply to that trader in commodities for state purposes with respect to that trade or business, and a separate election for state purposes with respect to that trade or business shall not be allowed under paragraph (3) of subdivision (e) of Section 23051.5.

(f) (1) An election under Section 475(e) or (f) of the Internal Revenue Code made for federal purposes with respect to a taxable year beginning before January 1, 1998, shall be treated as having been made for state purposes with respect to the first taxable year beginning on or after January 1, 1998.

(2) Section 1001(d)(4)(B) of the Taxpayer Relief Act of 1997 (Public Law 105-34), relating to the effective date for election of mark to market
by securities traders and traders and dealers in commodities, is modified to provide that the requirement for timely identification shall be treated as timely made for state purposes if that identification is treated as timely made for federal purposes, and the amount taken into account under Section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the four-taxable-year period beginning with the first taxable year beginning on or after January 1, 1998.

(g) In the case of any taxpayer required to change its method of accounting by the enactment of the act amending this subdivision, incorporating by reference to the amendments made by Section 7003 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206) to Section 475 of the Internal Revenue Code, each of the following shall apply for purposes of this part, Part 10 (commencing with Section 17001), or Part 10.2 (commencing with Section 18401):

(1) The change shall be treated as initiated by the taxpayer.
(2) The change shall be treated as made with the consent of the Franchise Tax Board.
(3) The taxpayer shall not be required to change its method of accounting until the first taxable year beginning on or after January 1, 2002.
(4) The net amount of the adjustments required to be taken into account by the taxpayer under Chapter 13 (commencing with Section 24631) shall be taken into account ratably over the three taxable year period beginning with that taxpayer’s first taxable year beginning on or after January 1, 2002.

SEC. 58. Section 24942 of the Revenue and Taxation Code is amended to read:

24942. (a) No gain or loss shall be recognized to a corporation on the receipt of money or other property in exchange for stock (including treasury stock) of that corporation. No gain or loss shall be recognized by a corporation with respect to any lapse or acquisition of an option, or with respect to a securities futures contract (as defined in Section 1234B of the Internal Revenue Code, to buy or sell its stock (including treasury stock).
(b) For basis of property acquired by a corporation in certain exchanges for its stock, see Sections 24552 to 24554, inclusive.

SEC. 59. Section 24949.1 of the Revenue and Taxation Code, as amended by Section 98 of Chapter 322 of the Statutes of 1998, is repealed.

SEC. 60. Section 24949.1 of the Revenue and Taxation Code, as added by Chapter 846 of the Statutes of 1961, is amended to read:

24949.1. For purposes of this part, the sale or exchange of livestock (other than poultry) held by a taxpayer for draft, breeding, or dairy
purposes in excess of the number the taxpayer would sell if he or she
followed his or her usual business practices shall be treated as an
involuntary conversion to which Sections 24943 to 24949, inclusive,
apply if the livestock are sold or exchanged by the taxpayer solely on
account of drought, flood, or other weather-related conditions.

SEC. 61. In order to provide employers and employees with the
same tax treatment for all years with respect to meals or lodging
furnished for the convenience of the employer as under federal law,
amendments made by the enactment of this act, which incorporates by
reference the amendments made by Section 5002 of the Internal Revenue
Service Restructuring and Reform Act of 1998 (Public Law 105-206) to
Section 119 of the Internal Revenue Code, shall apply to taxable years
beginning before, on, or after July 22, 1998.

SEC. 62. Sections 6001 to 6024, inclusive, of the Internal Revenue
Service Restructuring and Reform Act of 1998 (Title VI of Public Law
105-206), Sections 4001 to 4006, inclusive, of the Tax and Trade Relief
Extension Act of 1998 (Title IV of Division J of Public Law 105-277),
Sections 311 to 319, inclusive, of the Consolidated Appropriations Act,
2001 (Subtitle B of Title III of Public Law 106-554), and Sections 412
to 417, inclusive, of the Job Creation and Worker Assistance Act of 2002
(Public Law 107-147) enacted numerous technical corrections to
provisions of the Internal Revenue Code, including technical corrections
relating to the Consolidated Appropriations Act, 2001 (Public Law
106-554), the Tax Relief Extension Act of 1999 (Public Law 106-170),
the Ticket to Work and Work Incentives Improvement Act of 1999
(Public Law 106-170), the Tax and Trade Relief Extension Act of 1998
(Public Law 105-277), the Internal Revenue Service Restructuring and
Reform Act of 1998 (Public Law 105-206), the Balanced Budget Act of
1997 (Public Law 105-33), the Taxpayer Relief Act of 1997 (Public Law
105-34), the Small Business Job Protection Act of 1996 (Public Law
104-188), the Uruguay Round Agreements Act (Public Law 103-465),
the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66),
the Revenue Reconciliation Act of 1990 (Public Law 101-508), the
Technical and Miscellaneous Revenue Act of 1988 (Public Law
100-647), the Tax Reform Act of 1986 (Public Law 99-514), and the Tax
Reform Act of 1984 (Public Law 98-369), some of which are
incorporated by specific reference into Part 10 (commencing with
Section 17001), Part 10.2 (commencing with Section 18401), and Part
11 (commencing with Section 23001) of Division 2 of the Revenue and
Taxation Code. Unless otherwise specifically provided, the technical
corrections described in the preceding sentence, to the extent that they
correct provisions that are incorporated by specific reference into the
Revenue and Taxation Code, are declaratory of existing law and shall be
applied in the same manner and for the same periods as specified in the
Internal Revenue Service Restructuring and Reform Act of 1998 (Title VI of Public Law 105-206), the Tax and Trade Relief Extension Act of 1998 (Title IV of Division J of Public Law 105-277), the Consolidated Appropriations Act, 2001 (Subtitle B of Title III of Public Law 106-554), and the Job Creation and Worker Assistance Act of 2002 (Subtitle B of Title IV of Public Law 107-147) or if later, the specified date of incorporation.

SEC. 63. The amendments made to Section 17731.5 by this act are declaratory of existing law and shall be applied in the same manner and for the same taxable years as the amendments made by Section 6007(f)(2) of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206), unless those amendments specifically apply for federal purposes to a date prior to the specified date of incorporation, in which case they shall apply as of the specified date of incorporation.

SEC. 64. The amendments made to Section 17751 by this act are declaratory of existing law and shall be applied in the same manner and for the same taxable years as the amendments made by Section 6013(a) of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206), unless those amendments specifically apply for federal purposes to a date prior to the specified date of incorporation, in which case they shall apply as of the specified date of incorporation.

SEC. 65. The amendments made to Section 18038.5 by this act are declaratory of existing law and shall be applied in the same manner and for the same taxable years as the amendments made by Section 6005(f) of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206), unless those amendments specifically apply for federal purposes to a date prior to the specified date of incorporation, in which case they shall apply as of the specified date of incorporation.

SEC. 66. Amendments made by the enactment of this act, which incorporate by reference the amendments made by Section 3001 of the Tax and Trade Relief Extension Act of 1998 (Public Law 105-277) to Sections 332 and 334 of the Internal Revenue Code, shall apply to distributions made on or after January 1, 2002.

SEC. 67. In order to provide the same tax treatment for all years with respect to the tax treatment of a cash option for qualified prizes as under federal law, as modified by Public Law 105-277:

(a) Amendments made by the enactment of this act, which incorporates by reference the amendments made by Section 5301 of the Tax and Trade Relief Extension Act of 1998 (Public Law 105-277) to Section 451 of the Internal Revenue Code, shall apply to any prize to which a person first becomes entitled after October 21, 1998.

(b) Amendments made by the enactment of this act, which incorporates by reference the amendments made by Section 5301 of the
Tax and Trade Relief Extension Act of 1998 (Public Law 105-277) to Section 451 of the Internal Revenue Code, shall apply to any prize to which a person first becomes entitled on or before October 21, 1998, except that in determining whether an option is a qualified prize option as defined in Section 451(h)(2)(A) of the Internal Revenue Code:

(1) Section 451(h)(2)(A)(ii) of the Internal Revenue Code shall not apply.

(2) That option shall be treated as a qualified prize option if it is exercisable only during all or part of the 18-month period beginning on July 1, 1999.

SEC. 68. Amendments made by the enactment of this act, which incorporate by reference the amendments made by Section 3001 of the Miscellaneous Trade and Technical Corrections Act of 1999 (Public Law 106-36) to Sections 351, 357, 358, 362, 368, 584, and 1031 of the Internal Revenue Code, shall apply to transfers made on or after January 1, 2002.

SEC. 69. Section 502(d) of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170), relating to special rules delaying the claiming of the research credit, shall not apply.

SEC. 70. Amendments made by the enactment of this act, which incorporate by reference the amendments made by Section 532 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170), shall apply to any instrument held, acquired, or entered into, any transaction entered into, and supplies held or acquired, on or after January 1, 2002.

SEC. 71. Amendments made by the enactment of this act, which incorporate by reference the amendments made by Section 534 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170), which added Section 1260 of the Internal Revenue Code to Subchapter P of Chapter 1 of the Internal Revenue Code, shall apply to transactions entered into on or after January 1, 2002.

SEC. 72. Amendments made by the enactment of this act, which incorporate by reference the amendments made by Section 537 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170) to Section 170 of the Internal Revenue Code, shall apply to transfers made on or after January 1, 2002.

SEC. 73. In order to provide the same tax treatment under Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), and Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code, with respect to distributions by a partnership to a corporate partner, each of the following shall apply:

(a) Except as provided in subdivision (b), amendments made by the enactment of this act, which incorporate by reference the amendments made by Section 538 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170), shall apply to transfers made on or after January 1, 2002.
Improvement Act of 1999 (Public Law 106-170) to Section 732 of the Internal Revenue Code, shall apply to distributions made on or after January 1, 2002.

(b) (1) In the case of a corporation which is a partner in a partnership as of January 1, 2002, the amendment made by Section 538 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170) to Section 732 of the Internal Revenue Code, shall apply to any distribution made (or treated as made) to that partner from that partnership after June 30, 2002.

(2) (A) Paragraph (1) shall not apply to any distribution unless the partner has made the election under Section 538(b)(2) of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170) to have Section 538(b)(2) of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170) apply for federal purposes to that distribution on the partner’s return of federal income tax for the taxable year in which the distribution occurs.

(B) For purposes of subparagraph (A) of this paragraph, no separate election shall be allowed under paragraph (3) of subdivision (e) of Section 17024.5 or paragraph (3) of subdivision (e) of Section 23051.5.

SEC. 74. Amendments made by the enactment of this act to Section 24357.9 shall apply to a qualified computer contribution made on or after January 1, 2002.

SEC. 75. In order to provide the same tax treatment under Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), and Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code, with respect to the sale or exchange of livestock sold or exchanged solely on account of flood or other weather-related conditions, the amendments made to Section 24949.1 of the Revenue and Taxation Code, as added by Chapter 846 of the Statutes of 1961, shall apply to taxable years beginning on or after January 1, 1999.

SEC. 76. If a corporation that had in effect a valid federal election to be treated as an “S” corporation for federal purposes and a valid state election to be a “C” corporation for state purposes for taxable years beginning before January 1, 2002, is an “S” corporation pursuant to Section 23801 as amended by this act, the effective date of the election to be treated as an “S” corporation for state purposes shall be January 1, 2002.

SEC. 77. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. Sections 17085, 17140, 17140.3, 17144.5, 17205, 17501, 17551, 23701s, 23705, 23711, 23712, and 24306 of the Revenue and Taxation Code, as amended or added by this act, conform, in whole or in part, to the changes made by the Economic Growth and Tax Relief
Reconciliation Act of 2001 (Public Law 107-16) and Subtitle B of Title IV of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147) to the Internal Revenue Code and shall be operative with respect to the same period as the federal law provision to which it conforms.

SEC. 78. This act shall become operative only if Senate Bill 657 of the 2001–02 Regular Session is chaptered.

CHAPTER 36

An act to amend, repeal, and add Section 47612 of the Education Code, relating to charter schools, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 9, 2002. Filed with Secretary of State May 10, 2002.]

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

SECTION 1. Section 47612 of the Education Code is amended to read:

47612. (a) A charter school shall be deemed to be under the exclusive control of the officers of the public schools for purposes of Section 8 of Article IX of the California Constitution, with regard to the appropriation of public moneys to be apportioned to any charter school, including, but not limited to, appropriations made for the purposes of this chapter.

(b) The average daily attendance in a charter school may not, in any event, be generated by a pupil who is not a California resident. To remain eligible for generating charter school apportionments, a pupil over 19 years of age shall be continuously enrolled in public school and make satisfactory progress towards award of a high school diploma. The State Board of Education shall, on or before January 1, 2000, adopt regulations defining “satisfactory progress.”

(c) A charter school shall be deemed to be a “school district” for purposes of Article 1 (commencing with Section 14000) of Chapter 1 of Part 9, Section 41301, Section 41302.5, Article 10 (commencing with Section 41850) of Part 24, Section 47638, and Sections 8 and 8.5 of Article XVI of the California Constitution.

(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.
SEC. 2. Section 47612 is added to the Education Code, to read:

47612. (a) A charter school shall be deemed to be under the exclusive control of the officers of the public schools for purposes of Section 8 of Article IX of the California Constitution, with regard to the appropriation of public moneys to be apportioned to any charter school, including, but not limited to, appropriations made for the purposes of this chapter.

(b) The average daily attendance in a charter school may not, in any event, be generated by a pupil who is not a California resident. To remain eligible for generating charter school apportionments, a pupil over 19 years of age shall be continuously enrolled in public school and make satisfactory progress towards award of a high school diploma. The State Board of Education shall, on or before January 1, 2000, adopt regulations defining “satisfactory progress.”

(c) A charter school shall be deemed to be a “school district” for purposes of Section 41302.5, Article 10 (commencing with Section 41850) of Part 24, Section 47638, and Sections 8 and 8.5 of Article XVI of the California Constitution.

(d) This section shall become operative on July 1, 2004.

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 the ongoing funding mechanism for charter schools that is otherwise due to expire and would thereby jeopardize the education of pupils attending charter schools, it is necessary that this act take effect immediately.

CHAPTER  37

An act to amend Sections 25299.37.1, 25299.39.1, 25299.77, and 25395.41 of the Health and Safety Code, relating to hazardous substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 9, 2002. Filed with Secretary of State May 10, 2002.]

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

SECTION 1. Section 25299.37.1 of the Health and Safety Code is amended to read:
25299.37.1. (a) No closure letter shall be issued pursuant to this chapter unless all of the following conditions are met:

(1) The soil or groundwater, or both, where applicable, at the site have been tested for MTBE.
(2) The results of that testing are known to the regional board.
(3) The board, the regional board, or the local agency makes the finding specified in subdivision (h) of Section 25299.37.

(b) Paragraphs (1) and (2) of subdivision (a) does not apply to a closure letter for a tank case for which the board, a regional board, or local agency determines that the tank has only contained diesel or jet fuel.

SEC. 2. Section 25299.39.1 of the Health and Safety Code is amended to read:

25299.39.1. (a) The board shall develop, implement, and maintain a system for storing and retrieving data from cases involving discharges of petroleum from underground storage tanks to allow regulatory agencies and the general public to use historic data in making decisions regarding permitting, land use, and other matters. The system shall be accessible to government agencies and the general public. A site included in the data system shall be clearly designated as having no residual contamination if, at the time a closure letter is issued for the site pursuant to Section 25399.37 or at any time after that closure letter is issued, the board determines that no residual contamination remains on the site.

(b) For purposes of this section, “residual contamination” means the petroleum that remains on a site after a corrective action has been carried out and the cleanup levels established by the corrective action plan for the site, pursuant to subdivision (g) of Section 2725 of Title 23 of the California Code of Regulations, have been achieved.

SEC. 3. Section 25299.77 of the Health and Safety Code is amended to read:

25299.77. (a) The board shall adopt regulations to implement this chapter. In adopting these regulations, the board shall ensure that the regulations are consistent with this chapter, Chapter 6.7 (commencing with Section 25280), and the requirements for state programs implementing the federal act.

(b) The adoption of any regulations pursuant to this section that are filed with the Office of Administrative Law on or before January 1, 1995, shall be deemed to be an emergency necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulation adopted by the board pursuant to this subdivision shall not be
repealed by the Office of Administrative Law, and shall remain in effect until revised by the board.

SEC. 4. Section 25395.41 of the Health and Safety Code is amended to read:

25395.41. (a) The secretary shall solicit proposals for a package of environmental insurance products from insurance companies through a competitive bidding process. The request for proposal prepared by the secretary shall identify the objectives of this article and the specific types and coverage limits of the insurance products desired, including endorsements and exclusions. The request for proposal shall require that the proposal allow a purchaser the opportunity to pay for additional coverage without losing the lower transaction costs structure of the prenegotiated policy. The secretary shall hold at least one public workshop in both the northern and the southern part of the state to present and solicit comments on the request for proposal prior to receiving any proposals.

(b) (1) The secretary shall evaluate the extent to which each proposal submitted pursuant to subdivision (a) meets the objectives of the request for proposal and shall also evaluate each proposal and interested party using all of the following factors:

(A) Product pricing.
(B) Claims history.
(C) Underwriting history.
(D) Company financial strength and size.
(E) Scope of policy coverages, including endorsements and exclusions.
(F) Marketing and distribution of the insurance products.
(G) Any other factor that the secretary determines will affect the ability of the selected insurance company to meet the requirements of this article and provide the environmental insurance products in the most effective and efficient manner and at the least cost to the state and to persons seeking that insurance.

(2) The secretary shall select one or more insurance companies that have submitted a proposal pursuant to subdivision (a) to be the exclusive state-designated provider of environmental insurance under this article for a period of three years from the date of selection. The secretary shall select a company that, in his or her determination, has submitted a proposal that best meets the requirements of this article and the objectives stated in the request for proposal at the best possible price. Every three years, the secretary shall repeat the competitive bidding process specified in this section.

(c) An insurance company selected to provide prenegotiated environmental insurance products pursuant to subdivision (b) shall offer this prenegotiated package of insurance products to any interested
recipient of a loan under the CLEAN Program. The insurance company shall also offer the environmental insurance products made available under this article to any other person who conducts a response action in the state.

(d) The secretary shall implement this section in consultation with representatives of other appropriate state agencies, including the Technology, Trade, and Commerce Agency, the Business, Transportation and Housing Agency, the Office of Planning and Research, the Pollution Control Financing Authority, the Department of Insurance, the state board, the department, and with other interested parties, including developers, lenders, insurers, and representatives from environmental organizations. The secretary shall implement this section in a manner that is consistent with the requirements for state procurement of services set forth in Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to clarify provisions of the California Financial Assurance and Insurance for Redevelopment Program, which is intended to make environmental insurance more affordable by negotiating standardized policies and subsidizing premiums for the cleanup of brownfield sites, and to insure that a closure letter is not issued for a site contaminated with MTBE unless corrective action is taken properly at the site, thereby protecting public health and safety and the environment, it is necessary that this act take effect immediately.

CHAPTER 38

An act to add Article 21.5 (commencing with Section 70010) to Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code, and to add Section 5066 to the Vehicle Code, relating to license plates, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 13, 2002. Filed with Secretary of State May 13, 2002.]

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

SECTION 1. Article 21.5 (commencing with Section 70010) is added to Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code, to read:
Article 21.5. The California Memorial Scholarship Program

70010. (a) The California Memorial Scholarship Program is hereby established. The program shall be administered by the Scholarshare Investment Board established pursuant to Section 69984. The program shall be funded by the California Memorial Scholarship Fund established pursuant to Section 5066 of the Vehicle Code.

(b) The purpose of the program is to provide scholarships for surviving dependents of California residents killed as a result of injuries sustained during the terrorist attacks of September 11, 2001. These scholarships shall be used to defray the costs incurred by participants in the program at institutions of higher education. The Legislature finds and declares the scholarships provided by this act are funded by voluntary donations provided by California vehicle owners.

70010.1. As used in this article:

(a) “Board” means the Scholarshare Investment Board established pursuant to Section 69984.

(b) “California resident” means a person who would not be required to pay nonresident tuition under Chapter 1 (commencing with Section 68000) of Part 41.

(c) “Dependent” means a person who, because of his or her relationship to a California resident killed as a result of injuries sustained during the terrorist attacks of September 11, 2001, qualifies for compensation under the federal September 11th Victim Compensation Fund of 2001 (Title IV (commencing with Section 401) of Public Law 107-42).

(d) “Fund” means the California Memorial Scholarship Fund established pursuant to Section 5066 of the Vehicle Code.

(e) “Institution of higher education” means either of the following:

1. A private postsecondary educational institution within the meaning of Section 94739 that offers vocational instruction or training.

2. A regionally accredited postsecondary educational institution that offers associate, baccalaureate, graduate, or professional degrees.

(f) “Participant” means a surviving dependent of a California resident killed as a result of injuries sustained during the terrorist attacks of September 11, 2001, who has executed, or on whose behalf has been executed, a participation agreement pursuant to Section 70011.

(g) “Participation agreement” means an agreement, entered into pursuant to Section 70011, between the board and a participant or a person entitled to act on behalf of that participant.

(h) “Program” means the California Memorial Scholarship Program established pursuant to Section 70010.

70010.5. (a) The Treasurer shall identify all persons who are eligible for scholarships under the program. The Treasurer shall notify
these persons or, in the case of minors, the parents or guardians of these persons, of their eligibility for scholarships under the program. This notification shall be in writing, and shall be received by all of the appropriate persons no later than July 1, 2003. In order to identify and notify persons eligible for scholarships under this program, the Treasurer shall use information made available by the Special Master of the September 11 Victim Compensation Fund of 2001 (P.L. 107-42 (9/22/01) 115 Stat. 230) and by nonprofit organizations which provide assistance to families eligible for compensation from this fund, and other relevant sources.

(b) Eligible persons, or in the case of minors, the parents or guardians of these persons, shall inform the board of their decision on whether to participate in the program in a timely manner. Eligible persons, or in the case of minors, the parents or guardians of these persons, who are to become participants in the program shall execute participation agreements pursuant to Section 70011 no later than July 1, 2005.

70010.7. (a) The Department of Motor Vehicles shall deposit the proceeds of the sale of California memorial license plates into the fund in accordance with paragraph (2) of subdivision (c) of Section 5066 of the Vehicle Code. When a participation agreement is executed pursuant to Section 70011, the board shall establish an account within the fund for the benefit of a person eligible for the program. The total amount of moneys in the fund shall, at all times, be evenly divided among the accounts that are in existence at that time until the board has transferred five thousand dollars ($5,000) from the fund into each account. When five thousand dollars ($5,000) has been transferred by the board into each account, all revenues remaining in the fund shall be deposited into the Antiterrorism Fund created by paragraph (1) of subdivision (c) of Section 5066 of the Vehicle Code and distributed as provided in that paragraph. A participant or other entity may also deposit funds into an account, and these amounts shall not count towards the five thousand dollar ($5,000) limit.

(b) Moneys in the fund, including moneys in the accounts, may be invested and reinvested by the board, or may be invested in whole or in part under contract with private money managers, as determined by the board. The interest earned shall accrue to the accounts.

(c) The board shall establish within the fund an administrative account, the amount deposited in which may not exceed 5 percent of the total amount of moneys in the fund. Funds in the administrative account may be used, upon appropriation in the annual Budget Act or in another statute, for the administrative costs of the board in administering the program.

(d) No moneys from the fund may be encumbered, and no distribution may be made from any account in the fund, unless and until an
appropriation authorizing that encumbrance or distribution is made in the annual Budget Act or in another statute.

70011. (a) The board may enter into participation agreements with participants or with persons entitled to act on behalf of participants.

(b) A participation agreement shall specify that any moneys remaining in an account after the 30th birthday of the participant, or 10 years after the date of the execution of the participation agreement, whichever occurs last, shall revert to the Antiterrorism Fund established under paragraph (1) of subdivision (c) of Section 5066 of the Vehicle Code. The participation agreements may also include, but need not be limited to, the terms and subject matter set forth in Section 69983.

70011.3. Nothing in this article shall be construed to authorize or require the admission of a participant into a specific institution of higher education or degree program.

70011.5. Notwithstanding any other provisions of state law, any funds awarded pursuant to this article shall augment and not supplant student financial aid from other state sources. All calculations for eligibility for student financial aid from other state sources shall be made without consideration of any funds awarded pursuant to this article.

70011.7. Within the annual report required pursuant to Section 69989, the board shall also include information on the operation of the program. This information shall include, but need not be limited to, data on the number of participation agreements executed during the year, the date on which each participation agreement is executed, the age of each participant, the amount and number of distributions made from accounts within the fund, and the rate of return on the funds invested under this article.

70011.9. (a) The board may adopt regulations for the purposes of this article as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). For the purposes of the Administrative Procedure Act, including Section 11349.6 of the Government Code, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare, notwithstanding subdivision (e) of Section 11346.1 of the Government Code.

(b) Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, any regulation adopted pursuant to this section shall not remain in effect more than one year unless the board complies with rulemaking provisions of the Administrative Procedure Act, as required by subdivision (e) of Section 11346.1 of the Government Code.

SEC. 2. Section 5066 is added to the Vehicle Code, to read:
5066. (a) The department shall, in conjunction with the California Highway Patrol, design and make available for issuance pursuant to this article the California memorial license plate. Notwithstanding Section 5060, the California memorial license plate may be issued in a combination of numbers or letters, or both, as requested by the applicant for the plates. Any person described in Section 5101 may, upon payment of the additional fees set forth in subdivision (b), apply for and be issued a set of California memorial license plates.

(b) In addition to the regular fees for an original registration or renewal of registration, the following additional fees shall be paid for the issuance, renewal, retention, or transfer of the California memorial license plates authorized pursuant to this section:

1. For the original issuance of the plates, fifty dollars ($50).
2. For a renewal of registration of the plates or retention of the plates, if renewal is not required, forty dollars ($40).
3. For transfer of the plates to another vehicle, fifteen dollars ($15).
4. For each substitute replacement plate, thirty-five dollars ($35).
5. In addition, for the issuance of an environmental license plate, as defined in Section 5103, the additional fees prescribed in Sections 5106 and 5108 shall be deposited proportionately in the funds described in subdivision (c).

(c) The department shall deposit the additional revenue derived from the issuance, renewal, transfer, and substitution of California memorial license plates as follows:

1. Eighty-five percent in the Antiterrorism Fund, which is hereby created in the General Fund.
   - Upon appropriation by the Legislature, one-half of the money in the fund shall be allocated by the Controller to the Office of Criminal Justice Planning to be used solely for antiterrorism activities. The office shall not use more than 5 percent of any funds appropriated to it for administrative purposes.
   - Upon appropriation by the Legislature in the annual Budget Act or in another statute, one-half of the money in the fund shall be used solely for antiterrorism activities.
2. Fifteen percent in the California Memorial Scholarship Fund, which is hereby established in the General Fund. Moneys deposited in this fund shall be administered by the Scholarshare Investment Board, and shall be available, upon appropriation in the annual Budget Act or in another statute, for distribution or encumbrance by the board pursuant to Article 21.5 (commencing with Section 70010) of Chapter 2 of Part 42 of the Education Code.

(d) The department shall deduct its costs to administer, but not to develop, the California memorial license plate program.
(e) “Antiterrorism activities” means activities related to the prevention, detection, and emergency response to terrorism that are undertaken by state and local law enforcement, fire protection, and public health agencies. The funds provided for these activities, to the extent that funds are available, shall be used exclusively for purposes directly related to fighting terrorism. Eligible activities include, but are not limited to, hiring support staff to perform administrative tasks, hiring and training additional law enforcement, fire protection, and public health personnel, response training for existing and additional law enforcement, fire protection, and public health personnel, and hazardous materials and other equipment expenditures.

(f) Beginning January 1, 2007, and each January 1 thereafter, the department shall determine the number of currently outstanding and valid California memorial license plates. If that number is less than 7,500 in any year, then the department shall no longer issue or replace those plates.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Because California must take immediate preventative measures against terrorism and Californians need the opportunity to commemorate those lost through terrorism, it is necessary that this act go into immediate effect.

CHAPTER 39

An act to add and repeal Section 625.1 of the Public Utilities Code, relating to gas corporations, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 15, 2002. Filed with Secretary of State May 16, 2002.]

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

SECTION 1. Section 625.1 is added to the Public Utilities Code, to read:

625.1. (a) Notwithstanding Section 625, a gas corporation 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, but only as to property for which the gas corporation has filed a complaint in eminent domain in superior court on or before October 31, 2002.

(b) This section shall become inoperative on October 31, 2002, and, as of April 1, 2003, is repealed, unless a later enacted statute that is enacted before October 31, 2002, provides to the contrary.

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 immediately authorize the necessary condemnation of property by a gas corporation for the purpose of competing with another entity offering natural gas and services related to natural gas prohibited by existing law, it is necessary that this act take effect immediately.

CHAPTER 40

An act to add and repeal Section 20677.5 of the Government Code, and to amend Sections 201, 202, and 219 of the Labor Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 15, 2002. Filed with Secretary of State May 16, 2002.]

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

SECTION 1. The Legislature finds and declares that the purpose of this act is to approve an agreement pursuant to Section 3517 of the Government Code entered into by the state employer and a recognized employee organization.

SEC. 2. The provisions of the memorandum of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and State Bargaining Unit 2, the Association of California State Attorneys and Administrative Law Judges, and that require the expenditure of funds, are hereby approved for the purposes of Section 3517.6 of the Government Code.

SEC. 3. The provisions of the memorandum of understanding approved by Section 2 of this act that are scheduled to take effect on or after July 1, 2001, and that require the expenditure of funds, shall not take effect unless funds for these provisions are specifically appropriated by the Legislature. In the event that funds for these provisions are not specifically appropriated by the Legislature, the state employer and the
affected employee organization shall meet and confer to renegotiate the
affected provisions.

SEC. 4. Notwithstanding Section 3517.6 of the Government Code,
the provisions of any memorandum of understanding that require the
expenditure of funds shall become effective even if the provisions of the
memorandum of understanding are approved by the Legislature in
legislation other than the annual Budget Act.

SEC. 5. Section 20677.5 is added to the Government Code, to read:

20677.5. (a) Notwithstanding any provisions of this part to the
contrary, the normal rate of contribution for state miscellaneous and state
industrial members in State Bargaining Unit 2 shall be the following:

(1) From January 1, 2002, to June 30, 2002, inclusive, the normal rate
of contribution for a member whose service is not included in the federal
system shall be 3.5 percent of the compensation in excess of three
hundred seventeen dollars ($317) per month paid that member for
service rendered.

(2) From July 1, 2002, to June 30, 2003, inclusive, the normal rate of
contribution for a member whose service is not included in the federal
system shall be 1 percent of the compensation in excess of three hundred
seventeen dollars ($317) per month paid that member for service
rendered.

(3) From January 1, 2002, to June 30, 2002, inclusive, the normal rate
of contribution for a member whose service is included in the federal
system shall be 2.5 percent of the compensation in excess of five hundred
thirteen dollars ($513) per month paid that member for service rendered.

(4) From July 1, 2002, to June 30, 2003, inclusive, the normal rate of
contribution for a member whose service is included in the federal
system, shall be zero percent of the compensation in excess of five
hundred thirteen dollars ($513) per month paid that member for service
rendered.

(b) Notwithstanding any provisions of Section 21073.7 to the
contrary, a member who elects to become subject to the benefits
prescribed in Section 21354.1 and who is subject to this section shall be
subject to the normal rate of contribution set forth in this section.

(c) This section does not apply to state miscellaneous or state
industrial members who are subject to Section 21076.

(d) If the provisions of this section are in conflict with the provisions
of a memorandum of understanding reached pursuant to Section 3517.5
of the Government Code, the memorandum of understanding shall be
controlling without further legislative action, except that if the
provisions of a memorandum of understanding require the expenditure
of funds, the provisions may not become effective unless approved by
the Legislature in the annual Budget Act.
(e) This section shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute that becomes operative on or before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 6. Section 201 of the Labor Code is amended to read:

201. (a) If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. An employer who lays off a group of employees by reason of the termination of seasonal employment in the curing, canning, or drying of any variety of perishable fruit, fish or vegetables, shall be deemed to have made immediate payment when the wages of said employees are paid within a reasonable time as necessary for computation and payment thereof; provided, however, that the reasonable time shall not exceed 72 hours, and further provided that payment shall be made by mail to any employee who so requests and designates a mailing address therefor.

(b) Notwithstanding any other provision of law, the state employer shall be deemed to have made an immediate payment of wages under this section for any unused or accumulated vacation, annual leave, holiday leave, or time off to which the employee is entitled by reason of previous overtime work where compensating time off was given by the appointing power, provided, at least five workdays prior to his or her final day of employment, the employee submits a written election to his or her appointing power authorizing the state employer to tender payment for any or all leave to be contributed on a pretax basis to the employee’s account in a state-sponsors supplemental retirement plan as described under Sections 401(k), 403(b), or 457 of the Internal Revenue Code provided the plan allows those contributions. The contribution shall be tendered for payment to the employee’s 401(k), 403(b), or 457 plan account no later than 45 days after the employee’s discharge from employment. Nothing in this section is intended to authorize contributions in excess of the annual deferral limits imposed under federal and state law or the provisions of the supplemental retirement plan itself.

(c) Notwithstanding any other provision of law, when the state employer discharges an employee, the employee may, at least five workdays prior to his or her final day of employment, submit a written election to his or her appointing power authorizing the state employer to defer into the next calendar year payment of any or all of the employee’s unused or accumulated vacation, annual leave, holiday leave, or time off to which the employee is entitled by reason of previous overtime work where compensating time off was given by the appointing power. To qualify for the deferral of payment under this section, only that portion of leave that extends past the November pay period for state employees shall be deferred into the next calendar year.
An employee electing to defer payment into the next calendar year under this section may do any of the following:

1. Contribute the entire payment to his or her 401(k), 403(b), or 457 plan account.
2. Contribute any portion of the deferred payment to his or her 401(k), 403(b), or 457 plan account and receive cash payment for the remaining noncontributed unused leave.
3. Receive a lump-sum payment for all of the deferred unused leave as described above.

Payments shall be tendered under this section no later than February 1 in the year following the employee’s last day of employment. Nothing in this section is intended to authorize contributions in excess of the annual deferral limits imposed under federal and state law or the provisions of the supplemental retirement plan itself.

SEC. 7. Section 202 of the Labor Code is amended to read:

202. (a) If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting.

(b) Notwithstanding any other provision of law, the state employer shall be deemed to have made an immediate payment of wages under this section for any unused or accumulated vacation, annual leave, holiday leave, sick leave to which the employee is otherwise entitled due to a disability retirement, or time off to which the employee is entitled by reason of previous overtime work where compensating time off was given by the appointing power, provided at least five workdays prior to his or her final day of employment, the employee submits a written election to his or her appointing power authorizing the state employer to tender payment for any or all leave to be contributed on a pretax basis to the employee’s account in a state-sponsored supplemental retirement plan as described under Sections 401(k), 403(b), or 457 of the Internal Revenue Code provided the plan allows those contributions. The contribution shall be tendered for payment to the employee’s 401(k), 403(b), or 457 plan account no later than 45 days after the employee’s last day of employment. Nothing in this section is intended to authorize contributions in excess of the annual deferral limits imposed under
federal and state law or the provisions of the supplemental retirement plan itself.

(c) Notwithstanding any other provision of law, when a state employee quits, retires, or disability retires from his or her employment with the state, the employee may, at least five workdays prior to his or her final day of employment, submit a written election to his or her appointing power authorizing the state employer to defer into the next calendar year payment of any or all of the employee’s unused or accumulated vacation, annual leave, holiday leave, sick leave to which the employee is otherwise entitled due to a disability, retirement, or time off to which the employee is entitled by reason of previous overtime work where compensating time off was given by the appointing power. To qualify for the deferral of payment under this section, only that portion of leave that extends past the November pay period for state employees shall be deferred into the next calendar year under this section may do any of the following:

(1) Contribute the entire payment to his or her 401(k), 403(b), or 457 plan account.

(2) Contribute any portion of the deferred payment to his or her 401(k), 403(b), or 457 plan account and receive cash payment for the remaining noncontributed unused leave.

(3) Receive a lump-sum payment for all of the deferred unused leave as described above.

Payments shall be tendered under this section no later than February 1 in the year following the employee’s last day of employment. Nothing in this section is intended to authorize contributions in excess of the annual deferral limits imposed under federal and state law or the provisions of the supplemental retirement plan itself.

SEC. 8. Section 219 of the Labor Code is amended to read:

219. (a) Nothing in this article shall in any way limit or prohibit the payment of wages at more frequent intervals, or in greater amounts, or in full when or before due, but no provision of this article can in any way be contravened or set aside by a private agreement, whether written, oral, or implied.

(b) The state employer does not violate this section by authorizing employees who quit, or are discharged from, their employment with the state to take payment for any unused or accumulated vacation, annual leave, holiday leave, sick leave to which the employee is otherwise entitled due to a disability retirement, or time off to which the employee is entitled by reason of previous overtime work where compensating time off was given by the appointing power, as provided in Section 201 or 202.

SEC. 9. The sum of eight hundred seventy-five thousand dollars ($875,000) is hereby appropriated for expenditure in the 2001–02 fiscal
year in augmentation of, and for the purpose of state employee compensations as provided in, Items 9800-001-0001, 9800-001-0494, and 9800-001-0988 of Section 2.00 of the Budget Act of 2001 (Chapter 106, Statutes of 2001) in accordance with the following schedule:

(a) Three hundred ninety-two thousand dollars ($392,000) from the General Fund in augmentation of Item 9800-001-0001.

(b) Three hundred nine thousand dollars ($309,000) from unallocated special funds in augmentation of Item 9800-001-0494.

(c) One hundred seventy-four thousand dollars ($174,000) from other unallocated nongovernmental cost funds in augmentation of Item 9800-001-0988.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible in the 2001–02 fiscal year, and thereby facilitate the orderly administration of state government at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 41

An act to amend Section 31.5 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933), relating to water.

[Approved by Governor May 15, 2002. Filed with Secretary of State May 16, 2002.]

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

SECTION 1. Section 31.5 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

Sec. 31.5. (a) Basin equity assessments and production requirements and limitations on persons and operators within the district are declared to be in furtherance of district activities in the protection of water supplies for users within the district which are necessary for the public health, welfare, and safety of the people of this state. The basin equity assessments and the production requirements and limitations provided for in this act may be imposed upon, and applied to, all persons and producers within the district for the benefit of all who rely directly or indirectly upon the groundwater supplies of the district.

(b) The basin equity assessments imposed pursuant to this act against all persons and operators within the district may be uniform or
nonuniform in amount, as determined by the board of directors of the district, in order to effectuate the goals and purposes of the district. The proceeds of the basin equity assessments imposed and collected shall be used to equalize the cost of water to all persons and operators within the district and to acquire water to replenish the groundwater supplies of the district.

(c) As used in this act:

(1) “Supplemental sources” means sources of water outside the watershed of the Santa Ana River, excepting that portion of that watershed on and along Santiago Creek upstream of the downstream toe of the slope of the Villa Park Flood Control Dam, such as, but not limited to, water produced from the Metropolitan Water District of Southern California.

(2) “Basin production percentage” means the ratio that all water to be produced from groundwater supplies within the district bears to all water to be produced by persons and operators within the district from supplemental sources and from groundwater within the district during the ensuing water year.

(d) The district shall annually order an engineer employed by the district to prepare an investigation and report. The investigation and report shall set forth all of the following information, together with other information requested by the district, relating to the preceding water year:

(1) Amount of water produced by persons and operators from groundwater within the district.

(2) Amount of water produced by persons and operators from supplemental sources.

(3) Amount of water produced by persons and operators from all other sources.

(4) Condition of groundwater supplies within the district.

(5) Information as to the probable availability of water from supplemental sources during the next succeeding fiscal year.

(6) The cost of producing water from groundwater within the district, including any replenishment assessment of the district.

(7) The cost of water produced within the district from supplemental sources.

(e) (1) On the second Wednesday in February of each year, the engineering investigation and report shall be delivered to the secretary of the district.

(2) The secretary shall publish, pursuant to Section 6061 of the Government Code, a notice of the receipt of the report and of the public hearing to be held on the date of a meeting of the board of directors in March, in a newspaper of general circulation printed and published
within the district, at least 10 days prior to the date at which the public hearing regarding water supplies within the district is to be held.

(3) The notice, among any other information that the district may provide, shall include an invitation to all persons or operators within the district to call at the offices of the district to examine the engineering investigation and report.

(4) The board of directors shall hold on the date of a meeting of the board in March of each year, a public hearing at which a person or operator within the district, or any person interested in the amounts and source from which all persons and operators produce their total supply of water, as well as the estimated difference in the cost of water produced from groundwater within the district or supplemental sources, may appear and be heard, in person or by representative.

(f) (1) On the date of a meeting of the board of directors in April of each year, the board of directors shall hold a public hearing to determine the need and desirability of imposing basin equity assessments and the amounts thereof, the need for establishing production requirements and limitations, and the extent of those requirements and limitations as to each person or operator within the district for the ensuing water year.

(2) In computing and fixing the amount of any basin equity assessment for any person or operator within the district, the board may allow a percentage for delinquencies, not to exceed 10 percent, as determined by the board.

(3) Notice of the proposed hearing shall be published in the district pursuant to Section 6061 of the Government Code at least 10 days prior to the date set for the hearing.

(4) The notice shall set forth all of the following:

(A) That a report regarding water supplies within the district has been prepared.

(B) The date, time, and place of the proposed hearing.

(C) A statement that the board will consider at the hearing the need and desirability of imposing basin equity assessments and the amounts of those assessments, as well as establishing production requirements and limitations, on persons and operators within the district for the ensuing water year and surcharges in connection with those requirements and limitations.

(D) An invitation to all persons and operators to appear at the public hearing and be heard in regard to any of the foregoing matters.

(g) (1) At the hearing, the board shall hear, take, and receive all competent evidence presented regarding the need for basin equity assessments, production requirements and limitations in general, and specifically, the extent of those requirements or limitations as to each person or operator within the district, the amount of the basin equity assessment which shall be imposed upon each person and operator for
all purposes other than irrigation at uniform or nonuniform rates and may be imposed upon each person and operator for irrigation purposes at uniform or nonuniform rates for the ensuing water year, and the amount of surcharges for production in excess of the basin production limitations.

(2) After the hearing, the board may, by a resolution adopted by a vote of not less than eight members of the board, find and determine for the ensuing water year all of the following:

(A) The estimated total amount of water to be produced by all persons and operators within the district from the groundwater within the district and the estimated amount to be produced by persons and operators from supplemental sources.

(B) The basin production percentage.

(C) That a basin equity assessment and production requirement and limitation from groundwater within the district are necessary for the protection of the water supply of the district.

(D) The surcharge, in an amount to be determined in the discretion of the board, for production in excess of the production limitations.

(E) The amount of the basin equity assessment to be imposed upon each person and operator in a dollar amount per acre-foot of water produced from the groundwater supply for all purposes other than irrigation, which need not be uniform as to each person or operator within the district, and that the amount is reasonable.

(F) The amount of the basin equity assessment to be imposed upon each person and operator in a dollar amount per acre-foot of water produced from the groundwater supply for irrigation purposes, which need not be uniform as to each person or operator within the district, and that the amount is reasonable.

(G) Production requirements or limitations and the surcharge for production in excess of the basin production limitations on persons and operators within the district that will apply during the ensuing water year. The requirements and limitations shall be on the amount of groundwater produced by those persons and operators expressed in a percentage of overall water produced or obtained by those persons or operators from groundwater within the district and from supplemental sources.

(H) That during the ensuing water year, upon the district giving published notice pursuant to Section 6061 of the Government Code in a newspaper of general circulation printed and published within the district at least 10 days prior to such a hearing, a subsequent public hearing may be held to modify the basin production percentage, any basin equity assessment, any production requirement or limitation, or the surcharge for production in excess of the production limitation established by the district. A modification, if any, shall be effective on
the date established by the board and the district. The district shall give notice of the modification 10 days prior to the effective date of the modification pursuant to subdivision (e).

(h) (1) The board may exclude all persons and operators who produced 25 acre-feet or less of water from groundwater within the district during the ensuing water year from the imposition of the basin equity assessment and the production requirements and limitations.

(2) All findings and determinations made by the board pursuant to this section are final, conclusive, and binding upon all persons and parties.

(i) (1) The district shall thereafter, and in any event prior to July 1 in each year, give notice to each person or operator within the district. The notice shall include all of the following information:

(A) The amount of the basin equity assessment imposed upon that person or operator per acre-foot of water produced for purposes other than irrigation and the amount of the basin equity assessment imposed upon that person or operator per acre-foot of water produced for irrigation purposes.

(B) The basin production percentage.

(C) The production requirement or limitation upon the person or operator.

(D) The amount of surcharge imposed for production in excess of the basin production limitations.

(2) The notice required by this subdivision and the notice of any subsequent modifications may be sent by postcard or by other first-class mail with postage prepaid by the district.

(j) (1) Each person or operator within the district not excluded from the imposition of a basin equity assessment and the production requirements and limitations, shall file with the district, on or before the 30th day of September of each year, a basin equity assessment report in the form prescribed by the district setting forth the total amounts of water produced from groundwater within the district and from supplemental sources during the preceding water year by the person or operator. The statement shall be verified by a written declaration under penalty of perjury.

(2) If the person or operator has been required by the district to produce, or has in fact produced, more water from groundwater within the district than the equivalent of the basin production percentage determined by the district, that person or operator shall pay to the district, on or before September 30, an amount determined by the number of acre-feet of water which the person or operator has produced from groundwater within the district in excess of the acre-foot equivalent of the basin production percentage multiplied by the basin equity
assessment rate applicable to that person or operator, plus the amount of surcharge due for production in excess of the production limitations.

(3) (A) If a person or operator, pursuant to the requirement of the district, has produced from groundwater within the district less than of the equivalent of the basin production percentage, the district shall pay the person or operator, on or before the 30th day of November, from the basin equity assessment fund, an amount determined by the number of acre-feet by which the production of the person or operator from groundwater as required by the district is less than the acre-foot equivalent of the basin production percentage multiplied by the basin equity assessment rate applicable to that person or operator.

(B) If the production of the person or operator from groundwater is more than the production required by the district and less than the equivalent of the basin equity production percentage, then the district shall pay the person or operator an amount determined by the number of acre-feet by which the actual production of the person or operator from groundwater is less than the acre-foot equivalent of the basin production percentage multiplied by the basin equity assessment applicable to that person or operator.

(k) If any person or operator fails to pay, when due, the applicable basin equity assessment or surcharge due for production in excess of the production limitations, the district shall charge interest on the delinquent amount at the rate of 1 percent each month or fraction thereof for which the amount remains delinquent. Should any person or operator within the district fail to file a basin equity assessment report on or before the 30th day of November of any year, the district shall, in addition to charging interest, assess a penalty charge against that person or operator in the amount of 10 percent of the amount found by the district to be due.

(l) (1) The district may require other reports from persons and operators as necessary and desirable in the application of the basin equity assessment procedures.

(2) Upon good cause shown, an amendment to any report required under this section may be filed, or a correction of any report may be made, within six months after the date the report was filed with the district.

CHAPTER 42

An act to amend Sections 52054, 52055.600, 52055.605, 52055.610, 52055.615, 52055.620, 52055.625, 52055.640, 52055.645, 52055.655, and 52058 of, and to add Section 52055.656 to, the Education Code, and to amend Item 6110-485 of Section 2.00 of the Budget Act of 2001
The people of the State of California do enact as follows:

SECTION 1. Section 52054 of the Education Code is amended to read:

52054. (a) Commencing in the 2001–02 fiscal year, by November 15 of the year that the school is selected to participate, the governing board of a school district having jurisdiction over a school selected for participation in the program shall do one of the following:

(1) Contract with an external evaluator from the list of external evaluators and shall appoint a broad-based schoolsite and community team, consisting of a majority of nonschoolsite personnel. In a school that has a limited-English-proficient pupil population that constitutes at least 40 percent of the total pupil population, an external evaluator shall have demonstrated experience in working with a limited-English-proficient pupil population. Not less than 20 percent of the members of the team shall be parents or legal guardians of pupils in the school.

(2) Contract with an entity that has proven, successful expertise specific to the challenges inherent in low-performing schools. These entities may include, but are not limited to, the following:

(A) Institutions of higher education.
(B) County offices of education.
(C) School district personnel.

(b) The selected external evaluator or entity shall solicit input from the parents and legal guardians of the pupils of the school. At a minimum, the evaluator or entity shall do all of the following:

(1) Inform the parents and legal guardians, in writing, that the school has been selected to participate in the Immediate Intervention/Underperforming Schools Program due to its below average performance.

(2) Hold a public meeting at the school, in cooperation with the principal, to which all parents and legal guardians of pupils in the school receive a written invitation. The invitation to the meeting may be combined with the written notice required by paragraph (1).

(3) Solicit, at the public meeting, the recommendations and opinions of the participating parents and legal guardians of pupils in the school regarding actions that should be taken to improve the performance of the school. These opinions and recommendations shall be considered by the external evaluator or entity and the community team in the development
(4) Provide technical assistance to the schoolsite.

(5) Notify all parents and legal guardians of pupils in the school of their opportunity to provide written recommendations of actions that should be taken to improve the performance of the school which shall be considered by the external evaluator or entity and the community team in the development or modification of the action plan pursuant to this section or Section 52054.3. Notice required by this subdivision may be combined with the written notice required by paragraph (1).

(c) By February 15 of the school year in which the school is selected to participate, the selected external evaluator or entity, in collaboration with the broad-based schoolsite and community team selected pursuant to subdivision (a), shall complete a review of the school that identifies weaknesses that contribute to the school’s below average performance, make recommendations for improvement, and begin to develop an action plan to improve the academic performance of the pupils enrolled at the school. The action plan shall include percentage growth targets at least as high as the annual growth targets adopted by the State Board of Education pursuant to Section 52052. The action plan shall include an expenditure plan and shall be of a scope that does not require expenditure of funds in excess of those provided pursuant to this article or otherwise available to the school. The action plan may not be of a scope that requires reimbursement by the Commission on State Mandates for its implementation.

(d) At a minimum, the action plan shall do all of the following:

(1) Review and include the school and district conditions identified in the school accountability report card pursuant to Section 33126.

(2) Identify the current barriers at the school and district toward improvements in pupil achievement.

(3) Identify schoolwide and districtwide strategies to remove these barriers.

(4) Review and include school and school district crime statistics, in accordance with Section 628.5 of the Penal Code.

(5) Examine and consider disaggregated data regarding pupil achievement and other indicators to consider whether all groups and types of pupils make adequate progress toward short-term growth targets and long-term performance goals. The disaggregated data to be included and considered by the plan shall, at a minimum, provide information regarding the achievement of English language learners, pupils with exceptional needs, pupils who qualify for free and reduced price meals, and pupils in numerically significant subgroups.

(6) Set short-term academic objectives pursuant to Section 52052 for a two-year period that will allow the school to make adequate progress
toward the growth targets established for each participating school for pupil achievement as measured by all of the following to the extent that the data is available for the school:

(A) The achievement test administered pursuant to Section 60640.
(B) Graduation rates for grades 7 to 12, inclusive.
(C) Attendance rates for pupils and school personnel for elementary, middle, and secondary schools.
(D) Any other indicators approved by the State Board of Education.

(e) The school action plan shall focus on improving pupil academic performance, improving the involvement of parents and guardians, improving the effective and efficient allocation of resources and management of the school, and identifying and developing solutions that take into account the underlying causes for low performance by pupils.

(f) The team, in the development of the action plan, shall consult with the exclusive representatives of employee organizations, where they exist.

(g) The school action plan may propose to increase the number of instructional days offered at the schoolsite and also may propose to increase up to a full 12 months the amount of time for which certificated employees are contracted, if all of the following conditions are met:

(1) Provisions of the plan proposed pursuant to this subdivision shall not violate current applicable collective bargaining agreements.

(2) An agreement is reached with the exclusive representative concerning staffing specifically to accommodate the extended school year or 12-month contract.

(h) The team, in the development of the action plan, shall consult with the exclusive representatives of employee organizations, where they exist.

(i) Upon its completion, the action plan shall be submitted to the governing board of the school districts for its approval at a regularly scheduled public meeting. After the plan is approved, but no later than May 15 of the year that follows the year the school is selected to participate, the plan shall be submitted to the Superintendent of Public Instruction with a request for funding in the form prescribed by the Superintendent of Public Instruction, who shall review the school action plan and recommend approval or disapproval of the school’s request for funding to the State Board of Education.

(j) Not later than July 15 of the year next following the year in which a school is selected for participation, the State Board of Education shall review and approve or disapprove the school’s request for funding, based on the recommendation of the Superintendent of Public Instruction. Within 30 days of the State Board of Education’s review, the Superintendent of Public Instruction shall notify the effected school districts of the state of the board’s action regarding the request for
funding. In conjunction with its approval of a request for funding to implement a school’s action plan, the State Board of Education may, at the request of the governing board of the school district or the county board of education for a school under its jurisdiction, waive all or any part of any provision of this code, or any regulation adopted by the State Board of Education, controlling any of the programs listed in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761 and Section 64000 if the waiver does not result in a decrease in the instructional time otherwise required by law or regulation or an increase in state costs and is determined to be consistent with subdivision (a) of Section 46300.

SEC. 2. Section 52055.600 of the Education Code is amended to read:

52055.600. (a) The High Priority Schools Grant Program for Low Performing Schools is hereby established. Participation in this program is voluntary.

(b) From funds made available for purposes of this article, the Superintendent of Public Instruction shall allocate a total of four hundred dollars ($400) per pupil, including funds received pursuant to Section 52054.5 or for the Comprehensive School Reform Demonstration Program (Public Law 105-78), to eligible schools for implementation of a school action plan approved pursuant to this article. In the first year of participation, instead of four hundred dollars ($400) per pupil, a schoolsite may receive a total of thirty-three dollars and thirty-three cents ($33.33) per pupil for each month remaining in the fiscal year ending June 30, 2003, beginning in the month immediately following the date of approval by the State Board of Education of the action plan required pursuant to this article. If the plan is not approved prior to the end of the fiscal year, the funding shall be similarly prorated in the subsequent year.

(c) It is the intent of the Legislature that federal funding provided pursuant to the Comprehensive School Reform Demonstration Program (P.L. 105-78) supplement, not supplant, funding received pursuant to this article.

(d) Funds received pursuant to this article may not be used to match funds received pursuant to Article 3 (commencing with Section 52053).

(e) The school district shall keep fiscal records available for inspection that affirm allocation to schoolsites in accordance with this section and shall allocate resources in a manner that does not delay their use.

SEC. 3. Section 52055.605 of the Education Code is amended to read:
52055.605. (a) The Superintendent of Public Instruction, with the approval of the State Board of Education, shall identify schools ranked in deciles 1 to 5, inclusive, on the Academic Performance Index (API).

(b) The Superintendent of Public Instruction shall invite schools identified pursuant to subdivision (a) to participate in the High Priority Schools Grant Program for Low Performing Schools. Notwithstanding subdivision (h) of Section 52053, in order to be eligible for funding from the High Priority Schools Grant Program for Low Performing Schools, a school shall also participate in the Immediate Intervention/Underperforming Schools Program. A school participating in both programs may elect to submit only one application and one plan for both programs. A school participating in the Immediate Intervention/Underperforming Schools Program before the date of the enactment of the act adding this section is also eligible for participation in the High Priority Schools Grant Program for Low Performing Schools.

(c) First priority for participation in the High Priority Schools Grant Program for Low Performing Schools shall be given to schools ranked on the API in decile 1. Second priority shall be given to schools in decile 2. Third priority shall be given to schools in decile 3. Fourth priority shall be given to schools in decile 4. Fifth priority shall be given to schools in decile 5. Within each decile, priority shall be given to the lowest ranked schools.

(d) Notwithstanding any other provision of law and if funds are available for this purpose, the number of schools within the designated cohorts of the Immediate Intervention/Underperforming Schools Program pursuant to Section 52053 may exceed the maximum numbers specified in that section in order to participate in the program established pursuant to this article.

(e) If a school ranked in decile 1 of the API completes the action plan required as part of the application to participate in the federal Comprehensive School Reform Demonstration Program (P.L. 105-78), but there are insufficient funds to allow that school to participate in that program, so long as the action plan meets the requirements of subdivisions (d) and (e) of Section 52054, that school shall be automatically approved to the extent funding is available for participation in the Immediate Intervention/Underperforming Schools Program and shall be deemed to have complied with the requirements of Section 52054.

(f) The State Board of Education may allow continuation high schools to apply for and receive funding pursuant to this article if those continuation high schools report pupil performance that is equivalent to that of high schools ranked in deciles 1 and 2 on the Academic Performance Index and the board determines that the state will be able
to adequately determine growth in pupil performance in a valid and reliable manner for the purpose of accountability pursuant to this article. The State Board of Education may establish a limit on the number of continuation high schools that may be funded to reflect their proportion of low-performing pupils in grades 9 to 12, inclusive, and may adopt criteria limiting the eligibility for funding, pursuant to this article, of continuation high schools with a high level of per pupil funding from the continuation high school revenue limit add-on.

SEC. 4. Section 52055.610 of the Education Code is amended to read:

52055.610. (a) Fourteen days after the effective date of the act adding this section, the Superintendent of Public Instruction shall establish a procedure that is consistent with this article for the approval of applications and school action plans.

(b) Notwithstanding the existing application process established pursuant to Article 3 (commencing with Section 52053), in developing an action plan to be submitted with the application for funding pursuant to this article, a school may choose from the following options:

(1) A school district on behalf of an eligible school under its jurisdiction may elect to receive fifty thousand dollars ($50,000) as a planning grant from funds appropriated for purposes of this article. These planning grant funds shall be used for technical assistance in the development of the school action plan. Technical assistance includes assistance provided by school district personnel, county offices of education, universities, a state approved external evaluator, or any other entity that has proven successful expertise specific to the challenges inherent in low-performing schools. If the school action plan is approved, the Superintendent of Public Instruction shall provide funding for its implementation. Planning grant funds, as well as other funds available to school districts pursuant to this article, may be used for on-going technical assistance throughout the implementation of the action plan and continued participation in the program established pursuant to Article 3 (commencing with Section 52053) and the program established pursuant to this article.

(2) A school district, on behalf of an eligible school under its jurisdiction, may elect to forego the fifty thousand dollars ($50,000) planning grant and immediately submit its application and school action plan. If a school chooses this option, the Superintendent of Public Instruction shall take one of the following actions:

(A) Recommend approval of the application by the State Board of Education and action plan and provide funding for implementation of the school action plan.

(B) Request additional clarification and technical changes, after which the school and district shall resubmit the application and school
action plan with the clarifications and changes for approval. If the application and school action plan is approved, the Superintendent of Public Instruction shall provide funding for implementation of the school action plan.

(C) Disapprove the plan in which case a school district on behalf of an eligible school under its jurisdiction shall receive a fifty thousand dollars ($50,000) planning grant that shall be used for technical assistance in the redevelopment of the school action plan according to the department’s recommendations. Technical assistance includes assistance provided by school district personnel, county offices of education, universities, a state approved external evaluator, or any other entity that has proven expertise specific to the challenges inherent in low-performing schools.

(c) The following deadlines apply for the 2001–02 fiscal year:

(1) A school district on behalf of an eligible school under its jurisdiction shall submit the application and school action plan to the Superintendent of Public Instruction for review and approval by May 15, 2002.

(2) The Superintendent of Public Instruction shall make a recommendation to the State Board of Education regarding approval or disapproval of applications and school action plans by June 15, 2002. The State Board of Education shall approve or disapprove the application and action plan by June 30, 2002. Upon approval by the State Board of Education, the State Department of Education shall allocate funding to schools for the implementation of the action plan. If the State Board of Education fails to approve or disapprove the application and school action plan by June 30, 2002, the recommendation of the Superintendent of Public Instruction shall be deemed to be adopted and funding for implementation of the action plan shall be allocated.

(3) If the Superintendent of Public Instruction takes the action specified in subparagraph (B) of paragraph (2) of subdivision (b), the school and school district shall resubmit the application and school action plan with the clarifications and changes for approval by August 1, 2002, and the Superintendent of Public Instruction shall make a recommendation to the State Board of Education regarding approval or disapproval by September 1, 2002. The State Board of Education shall approve or disapprove the application and action plan by September 30, 2002. If the action plan is approved, the department shall allocate funding to the school district on behalf of an eligible school under its jurisdiction for implementation of the action plan. If the State Board of Education fails to approve or disapprove the application and school action plan by September 30, 2002, the recommendation of the Superintendent of Public Instruction shall be deemed to be adopted and funding for implementation of the action plan.
(4) A school district may request that the State Board of Education waive the deadlines set forth in this subdivision. The State Board of Education may grant a waiver request made pursuant to this paragraph.

(d) If a school receives implementation funding during the same fiscal year it receives a fifty thousand dollar ($50,000) planning grant, the planning grant shall be deducted from the amount of implementation funding provided to the school pursuant to subdivision (b) of Section 52055.600.

SEC. 5. Section 52055.615 of the Education Code is amended to read:

52055.615. (a) If the Superintendent of Public Instruction invites a school to participate in the High Priority Schools Grant Program for Low Performing Schools, the governing board of the school district shall hold a public hearing at a regularly scheduled meeting to discuss whether or not to apply for participation in this program and how to address the needs of the school and pupils.

(b) If a school district, on behalf of an eligible school under its jurisdiction, decides not to accept the invitation to participate in the High Priority Schools Grant Program for Low Performing Schools, the governing board of the school district shall hold a public hearing at a regularly scheduled meeting to discuss the reasons and rationale for not accepting the invitation and explain how the district intends to address the needs of the school and pupils. This section does not apply to school districts with jurisdiction over schools for which the Superintendent of Public Instruction has indicated that funding would not be available. The governing board shall not place the discussion required pursuant to this subdivision on the consent calendar of the hearing.

(c) The governing board shall notify, in writing, the following persons and entities of the public hearings required pursuant to subdivisions (a) and (b):

(1) Representative parent organizations at the schoolsite, including the parent teacher association, parent teacher clubs, and schoolsite councils. The district is encouraged also to notify parents directly through appropriate means. Notifications to parents shall comply with Article 4 (commencing with Section 48985) of Chapter 6 of Part 27.

(2) All local major media outlets.

(3) The local mayor.

(4) All members of the city council.

(5) All members of the county board of supervisors.

(6) County superintendents of schools.

(7) County board of education.

SEC. 6. Section 52055.620 of the Education Code is amended to read:
52055.620. (a) As a condition of the receipt of funds, a school action plan shall be based upon the following:

(1) It shall be based on scientifically based research, effective practices, and be data driven.

(2) It shall include ongoing data gathering for the purposes of this program so that progress can be measured and verified and the plan can be modified based on the data.

(3) It shall be grounded in the findings from an initial needs assessment.

(4) It shall evidence a commitment by the school community to implement the plan. The plan shall describe how this commitment will be evidenced.

(5) It shall make clear that there is a heightening of expectations on the part of all personnel associated with the schoolsite that all children can learn and every school can succeed.

(6) It shall ensure that an environment that is conducive to teaching and learning is provided at the schoolsite.

(7) It shall identify additional human, financial, and other resources available to the school to be used in the implementation of the school action plan.

(b) (1) The action plan shall be developed, in partnership with the school district, by the schoolsite council, as defined in Section 52012, or if the school does not have a schoolsite council, by a schoolwide advisory group or school support group that conforms to the requirements of Section 52012 and whose members are self-selected.

(2) Notwithstanding paragraph (1), a school participating in the Immediate Intervention/Underperforming Schools Program prior to the effective date of the act adding this section may continue using its school action team for purposes of developing an action plan pursuant to this article.

(c) In developing a school action plan, the school and school district shall use the technical assistance from school district personnel, county offices of education, universities, a state approved external evaluator, or any other person or entity that has proven successful expertise specific to the challenges inherent in low-performing schools. In addition, the school and district may include an individual to facilitate the activities related to the development of this plan.

(d) The action plan shall include a strategy, jointly developed by the school district and the exclusive bargaining representative of the certificated employees of the district, for addressing the distribution of experienced credentialed teachers throughout the district, including an agreement by the district and the exclusive bargaining representative of the certificated staff on how they are going to achieve a balance in that distribution. This collaboration shall take place outside of collective
bargaining and shall strive to develop a strategy that will attract and retain equal ratios of credentialed teachers at each school in the district. This collaboration shall include discussions on ways to maximize current options to recruit credentialed teachers to the district, use of regional recruitment centers, ensuring that newly hired credentialed teachers are assigned in alignment with the goal of even distribution of credentialed teachers, and ensuring that low-performing schools provide a necessary teaching and learning environment to retain a fully credentialed teaching staff.

(e) The action plan may include any existing plan a school may have developed for another program, that may include existing strategies that meet the requirements of the essential components of a school action plan specified in Section 52055.625.

SEC. 7. Section 52055.625 of the Education Code is amended to read:

52055.625. (a) It is the intent of the Legislature that the lists contained in paragraph (2) of subdivisions (c), (d), (e), and (f) be considered options that may be considered by a school in the development of its school action plan and that a school not adopt all of the listed options as a condition of funding under the terms of this act. Instead, this listing of options is intended to provide the opportunity for focus and strategic planning as schools plan to address the needs of low-performing pupils.

(b) As a condition of the receipt of funds, a school action plan shall include each of the following essential components:

(1) Pupil literacy and achievement.
(2) Quality of staff.
(3) Parental involvement.
(4) Facilities, curriculum, instructional materials, and support services.

(c) (1) The pupil literacy and achievement component shall contain a strategy to focus on increasing pupil literacy and achievement, with necessary attention to the needs of English language learners. At a minimum, this strategy shall include a plan to achieve the following goals:

(A) Each pupil at the school will be provided appropriate instructional materials aligned with the academic content and performance standards adopted by the State Board of Education as required by law.

(B) Each significant subgroup at the school will demonstrate increased achievement based on API results by the end of the implementation period.

(c) (1) The pupil literacy and achievement component shall contain a strategy to focus on increasing pupil literacy and achievement, with necessary attention to the needs of English language learners. At a minimum, this strategy shall include a plan to achieve the following goals:

(A) Each pupil at the school will be provided appropriate instructional materials aligned with the academic content and performance standards adopted by the State Board of Education as required by law.

(B) Each significant subgroup at the school will demonstrate increased achievement based on API results by the end of the implementation period.

(C) English language learners at the school will demonstrate increased performance based on the English language development test
(2) To achieve the goals in paragraph (1), a school in its action plan may include, among other things, any of the following options:

(A) Selective class size reduction in key curricular areas provided this does not result in a decrease in the proportion of experienced credentialed teachers at the schoolsite.

(B) Increased learning time in key curricular areas identified as needing attention, including mathematics.

(C) Targeted intensive reading instruction utilizing reading capacity-level materials that may include, but are not limited to, the following strategies:

(i) The development of a reading competency program for pupils in grades 5 to 8, inclusive, whose reading scores are at or below the 40th percentile or in the two lowest performance levels, as adopted by the State Board of Education, on the reading portion of the achievement test, authorized by Section 60640. This program may include direct instruction in reading at grade level utilizing the English language arts content standards adopted pursuant to Section 60605. Additionally, this program may offer specialized intervention that utilizes state approved instructional materials adopted pursuant to Section 60200. It is the intent of the Legislature, as a recommendation, that this curriculum consist of at least one class period during the regular schoolday taught by a teacher trained in the English language arts standards pursuant to Section 60605. It is also the intent of the Legislature, as a recommendation, that periodic assessments throughout the year be conducted to monitor the progress of the pupils involved.

(ii) The use of a library media teacher to work cooperatively with every teacher and principal at the schoolsite to develop and implement an independent and free reading program, help teachers determine a pupil’s reading level, order books that have been determined to meet the needs of pupils, help choose books at pupils’ independent reading levels, and assure that pupils read a variety of genres across all academic content areas. For purposes of this article, “library media teacher” means a classroom teacher who possesses or is in the process of obtaining a library media teacher services credential consistent with Section 44868.

(D) Mentoring programs for pupils.

(E) Community, business, or university partnerships with the school.

(d) (1) The quality of staff component shall contain a strategy to attract, retain, and fairly distribute the highest quality staff at the school, including teachers, administrators, and support staff. At a minimum, this strategy shall include a plan to achieve the following goals:

(A) An increase in the number of credentialed teachers working at that schoolsite.
(B) An increase in or targeting of professional development opportunities for teachers related to the goals of the action plan and English language development standards adopted by the State Board of Education aligned with the academic content and performance standards, including, but not limited to, participation in professional development institutes established pursuant to Article 2 (commencing with Section 92220) of Chapter 5 of Part 65.

(C) By the end of the implementation period, successful completion by the schoolsite administrators of a program designed to maximize leadership skills.

(2) To achieve the goals in paragraph (1) a school may include in its action plan, among others, any of the following options:

(A) Incentives to attract credentialed teachers and quality administrators to the schoolsite, including, but not limited to, additional compensation strategies similar to those authorized pursuant to Section 44735.

(B) A school district preintern or intern program within which eligible emergency permit teachers located at the schoolsite would be required to participate, unless those individuals are already participating in another teacher preparation program that leads to the attainment of a valid California teaching credential.

(C) Common planning time for teachers, administrators, and support staff focused on improving pupil achievement.

(D) Mentoring for site administrators, peer assistance for credentialed teachers, and support services for new teachers, including, but not limited to, the Beginning Teacher Support and Assessment System.

(E) Providing assistance and incentives to teachers for completion of professional certification programs and toward attaining BCLAD or CLAD certification.

(F) Increasing professional development in state academic content and performance standards, including English language development standards.

(e) (1) The parental involvement component shall contain a strategy to change the culture of the school community to recognize parents and guardians as partners in the education of their children and to prepare and educate parents and guardians in the learning and academic progress of their children. At a minimum, this strategy shall include a commitment to develop a school-parent compact as required by Section 51101 and a plan to achieve the goal of maintaining or increasing the number and frequency of personal parent and guardian contacts each year at the schoolsite and school-home communications designed to promote parent and guardian support for meeting state standards and core curriculum requirements.
(2) To achieve the goals in subdivision (a), a school may in its action plan include, among others, any of the following options:

(A) Parent and guardian homework support classes.
(B) A program of regular home visits.
(C) After school and evening opportunities for parents, guardians, and pupils to learn together.
(D) Training programs to educate parents and guardians about state standards and testing requirements, including the high school exit examination.
(E) Creation, maintenance, and support of parent centers located on school sites to educate parents and guardians regarding pupil expectations and provide support to parents and guardians in their efforts to help their children learn.
(F) Programs targeted at parents and guardians of special education pupils.
(G) Efforts to develop a culture at the school site focused on college attendance, including programs to educate parents and guardians regarding college entrance requirements and options.
(H) Providing more bilingual personnel at the school site and at school related functions to communicate more effectively with parents and guardians who speak a language other than English.
(I) Providing an opportunity for parents to monitor online, if the technology is available, and in compliance with applicable state and federal privacy laws, the academic progress and attendance of their children.

(f) (1) The facilities, curriculum, instructional materials, and support services component shall contain a strategy to provide an environment that is conducive to teaching and learning and that includes the development of a high-quality curriculum and instruction aligned with the academic content and performance standards adopted pursuant to Section 60605 and the standards for English language development adopted pursuant to Section 60811 to measure progress made towards achieving English language proficiency. At a minimum, this strategy shall include the goal of providing adequate logistical support including, but not limited to, curriculum, quality instruction, instructional materials, support services, and supplies for every pupil.

(2) To achieve the goal specified in paragraph (1), a school in its action plan may include, among others, any of the following options:

(A) State and locally developed valid and reliable assessments based on state academic content standards.
(B) Increased learning time in key curricular areas identified as needing attention, including mathematics.
(C) The addition of more pupil support services staff, including, but not limited to, paraprofessionals, counselors, library media teachers,
nurses, psychologists, social workers, speech therapists, audiologists, and speech pathologists.

(D) Pupil support centers for additional tutoring or homework assistance.

(E) Use of most current standards-aligned textbooks adopted by the State Board of Education, including materials for English language learners.

(F) For secondary schools, offering advanced placement courses and courses that meet the requirements for admission to the University of California or the California State University.

(g) A school action plan to improve pupil performance that is developed for participation in the program established pursuant to this article shall meet the requirements of subdivisions (d) and (e) of Section 52054 and this article.

SEC. 8. Section 52055.640 of the Education Code is amended to read:

52055.640. (a) As a condition of the receipt of funds and to ensure that the school is progressing towards meeting the goals of each of the essential components of its school action plan, each year the school district shall submit a report to the Superintendent of Public Instruction that includes the following:

(1) The academic improvement of pupils within the participating school as measured by the tests under Section 60640 and the progress made towards achieving English language proficiency as measured by the English language development test administered pursuant to Section 60810.

(2) The improvement of distribution of experienced teachers holding a valid California teaching credential across the district.

(3) The availability of instructional materials in core content areas that are aligned with the academic content and performance standards, including textbooks, for each pupil, including English language learners.

(4) The number of parents and guardians presently involved at each participating schoolsite as compared to the number participating at the beginning of the program.

(5) The number of pupils attending afterschool, tutoring, or homework assistance programs.

(6) For participating secondary schools, the number of pupils who are enrolled in and successfully completing advanced placement courses, by type, and requirements for admission to the University of California or the California State University, including courses in algebra, biology, and United States or world history.

(b) The report on the pupil literacy and achievement component shall be disaggregated by numerically significant subgroups, as defined in
Section 52052, and English language learners and have a focus on improved scores in reading and mathematics as measured by the following:

1. The Academic Performance Index, including the data collected pursuant to tests that are part of the Standardized Testing and Reporting Program and the writing sample that is part of that program.

2. The results of the primary language test pursuant to Section 60640.

3. Graduation rates, when the methodology for collecting this data has been confirmed to be valid and reliable.

4. In addition, a school may use locally developed assessments to assist in determining the pupil progress in academic literacy and achievement.

(c) The report on the quality of staff component shall include, but not limited to, the following information:

1. The number of teachers at the schoolsite holding a valid California teaching credential or district or university intern certificate or credential compared to those teachers at the same schoolsite holding a preintern certificate, emergency permit, or waiver.

2. The number and ratio of teachers across the district holding a valid California teaching credential or district or university intern certificate or credential compared to those holding a preintern certificate, emergency permit, or waiver.

3. The number of principals having completed training pursuant to Article 4.6 (commencing with Section 44510) of Chapter 3 of Part 25.

4. The number of principals by credential type or years of experience and length of time at the schoolsite by years.

(d) The report on the parental involvement component shall include explicit involvement strategies being implemented at the schoolsite that are directly linked to activities supporting pupil academic achievement and verification that the schoolsite has developed a school-parent compact as required by Section 51101.

(e) All comparisons made in the reports required pursuant to this section shall be based on baseline data provided by the district and schoolsite in the action plan that is certified and submitted with the initial application.

(f) To the extent that data is already reported to the Superintendent of Public Instruction, a school district need not include the data in the reports submitted pursuant to this section.

(g) Before submitting the reports required pursuant to this section, the school district shall, at a regularly scheduled public meeting of the governing board, review a participating school’s progress towards achieving those goals.
SEC. 9. Section 52055.645 of the Education Code is amended to read:

52055.645. (a) For the purpose of evaluating academic growth in core curriculum areas and determining the efficacy of the school action plan, schools are strongly encouraged to assess the academic progress of pupils on an annual basis and to evaluate the results in order to determine whether changes to the schoolsite plan are needed.

(b) In conducting these annual assessments, a school shall use the English language development test, administered pursuant to Section 60810 to measure progress towards achieving English language proficiency, where appropriate and the tests that are part of the Standardized Testing and Reporting Program. In addition, a school may use any curriculum-based achievement test to assess pupil growth if the test is proven to be valid and reliable.

(c) The results of these annual assessments shall be reported annually to the school district. The State Board of Education may use these results as quantifiable measurements of significant growth when determining whether to grant a waiver for an additional year of funding.

SEC. 10. Section 52055.655 of the Education Code is amended to read:

52055.655. (a) Notwithstanding subdivision (c) of Section 52055.650, a school participating in the High Priority Schools Grant Program for Low Performing Schools that meets or exceeds its API growth target shall continue to receive funding under this program in the amount specified in Sections 52054.5 and 52055.600 for one additional year of implementation, less the amount received pursuant to Section 52057.

(b) From funds made available to the State Department of Education pursuant to the act adding this section, the State Department of Education shall conduct a study on the issue of sustainability of funding for low-performing schools. The issues to be addressed in this study shall include, but are not limited to, the following:

(1) An objective rather than a comparative view of the necessity of sustaining supplemental funding over time to address the ongoing needs of low-performing pupils, and the impact of policies that only provide funding over a specified period of time.

(2) A description of the ongoing needs of low-performing schools, as identified in needs assessments submitted pursuant to paragraph (3) of subdivision (a) of 52055.620 and the sources of funding schools used to meet these needs.

(3) An analysis of the use of funds provided pursuant to this article and the effectiveness of that use in meeting the continued or changing needs of communities served by low-performing schools. This analysis shall include an evaluation of the growth in academic achievement
realized by participating schools and the ability of those schools to sustain growth in academic achievement if funding is continued.

(4) An assessment of whether local, state, and federal resources are likely to be sufficient to sustain all or some of the academic improvements made in low-performing schools after this state subsidy expires, taking into account prospects for the subsequent pupil population’s incidence of poverty and low socioeconomic status.

SEC. 11. Section 52055.656 is added to the Education Code, to read:

52055.656. (a) Each school district with schools participating in the High Priority Schools Grant Program for Low Performing Schools established pursuant to Section 52055.600 shall submit to the Superintendent of Public Instruction an evaluation of the impact, costs, and benefits of the program as it relates to the school district and the schools under its jurisdiction that are participating in the program and whether or not the schools met their growth targets, with an analysis of the reasons why the schools have or have not met those growth targets. Costs to develop and submit the evaluation shall be funded with resources provided pursuant to Article 3 (commencing with Section 52053). The evaluation shall be submitted by November 30, subsequent to the first full year of action plan implementation by participating schools, and on November 30, of each year thereafter.

(b) By January 15, 2003, the Superintendent of Public Instruction shall develop, and the State Board of Education shall approve, the guidelines for a request for proposal for an independent evaluator as described in this subdivision. By June 30, 2003, the Superintendent of Public Instruction shall contract with an independent evaluator to prepare a multiyear comprehensive evaluation of the implementation, impact, costs, and benefits High Priority Schools Grant Program for Low Performing Schools. The preliminary results of the multiyear evaluation shall be disseminated to the Legislature, the Governor and interested parties no later than June 30, 2004. An interim report shall be disseminated to the Legislature, the Governor, and interested parties no later than June 30, 2005. The final comprehensive evaluation shall be disseminated to the Legislature, the Governor, and interested parties no later than June 30, 2006. The final report shall include recommendations for necessary or desirable modifications to the programs established pursuant to this chapter.

(c) The evaluations shall consider all of the following:

(1) Pupil performance data, including, but not limited to, results of assessments used to determine whether or not schools have made significant progress towards meeting their growth targets.

(2) Program implementation data, including, but not limited to, a review of startup activities, community support, parental participation,
staff development activities associated with implementation of the program, percentage of fully credentialed teachers, percentage of teachers who hold emergency credentials, percentage of teachers assigned outside their subject area of competence, the accreditation status of the school if appropriate, average size per grade level, and the number of pupils in a multitract year-round educational program.

(3) (A) Pupil performance data, and its impact on the API, for each of the following subgroups:
(i) English language learners.
(ii) Pupils with exceptional needs.
(iii) Pupils that qualify for free or reduced price meals and are enrolled in schools that receive funds under Chapter 1 of the federal Elementary and Secondary Education Act of 1965, as amended by the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (P.L. 100-290).

(B) Information concerning individual pupils may not be disclosed in the process of preparing pupil performance data pursuant to this subdivision.

SEC. 12. Section 52058 of the Education Code is amended to read:

52058. (a) Each school district with schools participating in the Immediate Intervention/Underperforming Schools Program established pursuant to Section 52053 shall submit to the Superintendent of Public Instruction an evaluation of the impact, costs, and benefits of the program as it relates to the school district and the schools under its jurisdiction that are participating in the program and whether or not the schools met their growth targets, with an analysis of the reasons why the schools have or have not met those growth targets. Costs to develop and submit the evaluation shall be funded with resources provided pursuant to Article 3 (commencing with Section 52053). The evaluation shall be submitted by November 30, subsequent to the first full year of action plan implementation by participating schools, and on November 30, of each year thereafter.

(b) By January 15, 2000, the Superintendent of Public Instruction shall develop, and the State Board of Education shall approve, the guidelines for a request for proposal for an independent evaluator as described in this subdivision. By September 1, 2000, the Superintendent of Public Instruction shall contract with an independent evaluator to prepare a comprehensive evaluation of the implementation, impact, costs, and benefits of the Immediate Intervention/Underperforming Schools Program and the High Achieving/Improving Schools Program. The preliminary results of the evaluation shall be disseminated to the Legislature, the Governor, and interested parties no later than March 31, 2002, with a final report no later than June 30, 2002. The final report
shall include recommendations for necessary or desirable modifications
to the programs established pursuant to this chapter.

(c) The evaluations shall consider all of the following:

(1) Pupil performance data, including, but not limited to, results of
assessments used to determine whether or not schools have made
significant progress towards meeting their growth targets.

(2) Program implementation data, including, but not limited to, a
review of startup activities, community support, parental participation,
staff development activities associated with implementation of the
program, percentage of fully credentialed teachers, percentage of
teachers who hold emergency credentials, percentage of teachers
assigned outside their subject area of competence, the accreditation
status of the school if appropriate, average class size per grade level, and
the number of pupils in a multitrack year-round educational program.

(3) (A) Pupil performance data, and its impact on the API, for each
of the following subgroups:

(i) English language learners.

(ii) Pupils with exceptional needs.

(iii) Pupils that qualify for free or reduced price meals and are
enrolled in schools that receive funds under Chapter 1 of the federal
Elementary and Secondary Education Act of 1965, as amended by the
Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary
School Improvement Amendments of 1988 (P.L. 100-290).

(B) Information concerning individual pupils may not be disclosed
in the process of preparing pupil performance data pursuant to this
subdivision.

(d) The Superintendent of Public Instruction shall recommend and
the State Board of Education shall approve a schedule for biennial
evaluations of the programs established pursuant to this chapter,
subsequent to the evaluation required by this section. The biennial
evaluations shall be submitted, with appropriate recommendations, by
June 30 of every odd-numbered year, commencing with the year 2003.

SEC. 13. Item 6110-485 of Section 2.00 of Chapter 106 of the
Statutes of 2001, as amended by Chapter 1 of the Statutes of the 2001–02
Third Extraordinary Session, is amended to read:

6110–485—Reappropriation (Proposition 98) Department of
Education. The sum of $319,271,000 is reappropriated
from the Proposition 98 Reversion Account, for the fol-
lowing purposes:

0001—General Fund
(1) $4,166,000 to the State Department of Education for the purpose of funding prior year Annual Parent Notification–Staff Development mandate claims pursuant to Chapter 929, Statutes of 1997.

(3) $12,005,000 for transfer by the Controller to Section A of the State School Fund, for allocation by the Superintendent of Public Instruction to SELPAs to fully fund the 2000–01 special education average daily attendance increase.

(5) $846,000 to the State Department of Education, for transfer to Section A of the State School Fund, to fully fund the 1999–00 deficit in the child nutrition program.

(6) $1,281,000 to the State Department of Education, for transfer to Section A of the State School Fund to fully fund the 2000–01 deficit in the child nutrition program.

(8) $10,000,000 on a one–time basis to the State Department of Education for Regional Occupational Centers and Programs for equipment.

(9) $1,000,000 to the State Department of Education for allocation to FCMAT to provide professional management assistance to the Emery Unified School District.

(10) $200,000 to the State Department of Education for allocation to FCMAT to provide professional management assistance to school districts in west Contra Costa County.

(11) $500,000 to the State Department of Education for allocation to FCMAT for the purposes of implementing the Student Friendly Services through Technology project.

(12) $100,000 to the State Department of Education for the purpose of reimbursing districts for the cost of substitute educators pursuant to Section 44987.3 of the Education Code.

(13) $15,000,000 to the State Department of Education for allocation to schools pursuant to Article 2 (commencing with Section 51120) of Chapter 1.5 of Part 28 of the Education Code (Nell Soto Parent/Teacher Involvement Program).
(15) $62,505,000 as a contingency expenditure, to be authorized by the Department of Finance for transfer to the Controller as necessary for the reimbursement of state–mandated cost claims and interest submitted by school districts and county offices of education. These funds would be applied toward the minimum funding requirement for school districts and community college districts imposed by Section 8 of Article XVI of the California Constitution for the 2000–01 fiscal year.

(16) $23,939,000 to the State Department of Education for the purpose of funding prior year school crimes reporting mandate claims pursuant to Chapter 759 of the Statutes of 1992 and Chapter 410 of the Statutes of 1995.

(17) $8,590,000 to the State Department of Education for the purpose of funding ongoing mandates claims, excluding the School Bus Safety II mandate, pursuant to the enactment of mandates claims legislation during the 2001–02 Regular Session.

(18) $4,500,000 for allocation to FCMAT for ongoing fiscal oversight of school districts pursuant to Provision 4.

(19) $4,500,000 to the State Department of Education for allocation to the Fiscal Crisis and Management Assistance Team for costs associated with administration of the California School Information Services Project.

(20) $1,000,000 for allocation to the Fiscal Crisis and Management Assistance Team for the purpose of reviewing school district hiring practices, pursuant to Section 42127.85 of the Education Code.

(21) $15,000,000 to the State Department of Education for the Principal Training Program pursuant to legislation enacted during the 2001–02 Regular Session related to providing professional development training to administrators.

(22) $1,600,000 in one–time funding to the State Department of Education for the School Violence Reimbursement Project in the Grossmont Union High School District.
(23) $3,500,000 in one–time funding to the State Department of Education for the purpose of supporting sustainability and evaluation activities by existing Teenage Pregnancy Prevention Grant Program grantees that received funding in 2001–02 pursuant to Section 8922 of the Education Code. Funding shall be distributed proportionate to the funding received in 2000–01.

(24) $11,566,000 to the State Department of Education for the purpose of funding FCMAT’s implementation of the local California School Information Services Project.

(25) $635,000 to the State Department of Education for the Beginning Teacher Salary Program.

(27) $5,500,000 to be set aside on a one–time basis pursuant to legislation enacted during the 2001–02 Regular Session for career/technical education services.

(32) $110,000 on a one–time basis to the State Department of Education for grants to school districts and county offices of education pursuant to the gender equity train–the–trainer grant programs established pursuant to Section 224.5 of the Education Code.

(33) $6,000,000 to the State Department of Education for the allocation on a one–time basis to implement the High Tech High School Program pending enactment of legislation during the 2001–02 Regular Session.

(36) $500,000 to the State Department of Education to allocate to school districts for one–time costs associated with the English Language Development Test.

(37) $31,728,000 to the State Department of Education for the Mathematics and Reading Professional Development Program, pursuant to legislation enacted in the 2001–02 Regular Session.

(39) $5,000,000 to be set aside on a one–time basis for the purpose of funding legislation related to establishing the California Information Technology Career Academy Grant Initiative.
(40) $10,000,000 on a one–time basis to the State Department of Education to augment the School Safety Block Grant Program.

(41) $3,000,000 to the State Department of Education to contract for the development of the High School Exit Exam Workbooks.

(42) $75,000,000 to the State Department of Education to be allocated on a one–time basis for the purposes specified in Provision 8 of this item.

Provisions:
1. The funds reappropriated in subdivision (24) of this item shall be transferred to FCMAT only if education telecommunications funds do not materialize.

3. The funds reappropriated in subdivision (12) of this item shall only be used to reimburse districts which request reimbursement pursuant to Section 44987.3 of the Education Code.

4. Of the funds reappropriated in subdivision (18) of this item, $4,500,000 shall be allocated to FCMAT for purposes as follows:
   (a) $3,500,000 for the purposes of fully funding county office of education (COE) oversight activities pursuant to Chapter 1213 of the Statutes of 1991 and subsequent laws. These activities include, but are not limited to, conducting reviews, examinations, and audits of districts and providing written notifications of the results at least annually by county offices of education on the fiscal solvency of the districts with disapproved budgets, qualified or negative certifications, or, pursuant to Section 42127.6 of the Education Code, districts facing fiscal uncertainty. Written notifications of the results of these reviews, audits, and examinations shall be provided at least annually to the district governing board, the Superintendent of Public Instruction, the Director of Finance, and the Office of Secretary for Education.
   (b) $1,000,000 to fund reimbursement of COE activities pursuant to Provision 4 of Item 6110–107–0001 or for extraordinary costs of audits, examinations, or reviews of district budgets in cases where the COE has reason to believe fraud, misappropriation of funds, or
other illegal fiscal practices require COE review. If the legislation is adopted in the 2001–02 legislative session regarding COE fiscal oversight activities, the funds in this provision may also be used for those purposes. Any unexpended funds provided under this paragraph may be allocated for the development and implementation of training in accordance with paragraph (2) of subdivision (d) of Section 42127.8 of the Education Code.

(c) The amounts in subdivision (a) of this provision shall be distributed by a formula to be adopted by FCMAT in consultation with the California County Superintendent Educational Services Association and approved by the Department of Finance and the Superintendent of Public Instruction. The amounts in subdivision (b) of this provision shall be distributed by FCMAT on an as-needed basis subject to approval by the Department of Finance and the Superintendent of Public Instruction.

7. The funds reappropriated in subdivision (22) of this item shall be allocated by the State Department of Education to the Grossmont Union High School District in San Diego County for the School Violence Reimbursement Project. The Grossmont Union High School District shall expend these funds to increase the ratio of adults to students on campus, including, but not limited to, school staff and faculty, community partners, school security personnel, school resource officers, and volunteers, and to fund a pilot program for a school violence prevention hotline to reduce the risks of acts of violence against students and staff. These funds may also be used to reimburse the Grossmont Union High School District for nonbudgeted expenses incurred during the separate school campus shootings within the district in 2001.

8. (a) Of the funds reappropriated in subdivision (42) of this item up to $8,000,000 shall be set aside to provide a third year of Immediate Intervention/Underperforming Schools Program implementation grant funding for schools that received their first year of IIUSP implementation funding in 2000–01, if they meet the following conditions (1) have met their Academic Performance Index growth targets, pursuant to Section 52052 of the Education Code, for two
consecutive years and (2) are not receiving funding through the Comprehensive School Reform Demonstration program and (3) they were in the first decile of the Academic Performance Index (API) in the 2000–01 fiscal year. The amount of funding provided to these schools for a third year of implementation shall be the amount specified in Section 52054.5 of the Education Code, less the amount received pursuant to Section 52057 of the Education Code. Notwithstanding Section 2.00 of the Budget Act of 2001 (Ch. 106, Stats. 2001), these funds shall be available through June 30, 2003.

The balance of these funds shall be allocated to all local education agencies in the state on the basis of an equal amount per unit of average daily attendance, including average daily attendance attributable to regional occupational centers and programs and adult education programs, as reported on the second principal apportionment for the 2000–01 fiscal year, and average daily enrollment in preschool and child care programs operated on local educational agency schoolsites by local educational agencies under contract with the Child Development Division of the State Department of Education. For the purpose of determining the average daily enrollment of children served by local education agencies in preschool and child care development programs operated on their schoolsites, the Superintendent of Public Instruction shall divide a local education agency’s total number of child days of enrollment in these programs in the 2000–01 school year by 175 days for a preschool program, 246 days for a general or migrant child care program, or 160 days for a schoolage community child care program to determine an average daily enrollment for the programs and allocate funds according to this average daily enrollment. Of the funds distributed for the purposes of this provision, each school district, county office of education, and charter school shall receive not less than $3,750 for each schoolsite within its jurisdiction. Each school district, county office of education, and charter school has discretion to allocate these funds within its jurisdiction, as each deems appropriate.

(b) For purposes of this item, “schoolsite” means any public school that was a wholly self-contained site, with a separate county-district-school (CDS) code
as maintained by the Superintendent of Public Instruction as of June 30, 2000, and that was in operation during the entire 2000-01 school year. Two or more schools that share a physical site or staff shall be considered a single schoolsite.

(c) As a condition of receipt of funds provided in this item, school districts, county offices of education, and charter schools shall, in a local governing board resolution adopted in a regularly scheduled public meeting by the end of the 2001-02 fiscal year, identify energy conservation measures that result in a decrease in the amount of energy used by schools within the local education agency. The local governing board resolution shall also include a list of specific actions that will be carried out to achieve the reduction in energy use. Funds appropriated under this item may be used for energy conservation measures, increased energy costs, career/technical education one time purposes, or any other one time educational purpose.

SEC. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement this measure as expeditiously as possible, and to utilize available funding, it is necessary that this measure take effect immediately.

CHAPTER 43

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time wherein actions may be commenced, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 15, 2002. Filed with Secretary of State May 16, 2002.]

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

SECTION 1. This act shall be known and may be cited as the First Validating Act of 2002.

SEC. 2. As used in this act:

(a) "Public body" means the state and all departments, agencies, boards, commissions, and authorities of the state. "Public body" also
means all counties, cities and counties, cities, districts, authorities, agencies, boards, commissions, and other entities, whether created by a general statute or a special act, including, but not limited to, the following:

- Agencies, boards, commissions, or entities constituted or provided for under or pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.
- Air pollution control districts of any kind.
- Air quality management districts.
- Airport districts.
- Assessment districts, benefit assessment districts, and special assessment districts of any public body.
- Bridge and highway districts.
- California water districts.
- Citrus pest control districts.
- City maintenance districts.
- Community college districts.
- Community development commissions.
- Community facilities districts.
- Community redevelopment agencies.
- Community rehabilitation districts.
- Community services districts.
- Conservancy districts.
- Cotton pest abatement districts.
- County boards of education.
- County drainage districts.
- County flood control and water districts.
- County free library systems.
- County maintenance districts.
- County sanitation districts.
- County service areas.
- County transportation commissions.
- County water agencies.
- County water authorities.
- County water districts.
- County waterworks districts.
- Department of Water Resources and other agencies acting pursuant to Part 3 (commencing with Section 11100) of Division 6 of the Water Code.
- Distribution districts of any public body.
- Drainage districts.
- Fire protection districts.
- Flood control and water conservation districts.
- Flood control districts.
Garbage and refuse disposal districts.
Garbage disposal districts.
Geologic hazard abatement districts.
Harbor districts.
Harbor improvement districts.
Harbor, recreation, and conservation districts.
Health care authorities.
Highway districts.
Highway interchange districts.
Highway lighting districts.
Housing authorities.
Improvement districts or improvement areas of any public body.
Industrial development authorities.
Infrastructure financing districts.
Integrated financing districts.
Irrigation districts.
Joint highway districts.
Levee districts.
Library districts.
Library districts in unincorporated towns and villages.
Local agency formation commissions.
Local health care districts.
Local health districts.
Local hospital districts.
Local transportation authorities or commissions.
Maintenance districts.
Memorial districts.
Metropolitan transportation commissions.
Metropolitan water districts.
Mosquito abatement or vector control districts.
Municipal improvement districts.
Municipal utility districts.
Municipal water districts.
Nonprofit corporations.
Nonprofit public benefit corporations.
Open-space maintenance districts.
Parking authorities.
Parking districts.
Permanent road divisions.
Pest abatement districts.
Police protection districts.
Port districts.
Project areas of community redevelopment agencies.
Protection districts.
Public cemetery districts.
Public utility districts.
Rapid transit districts.
Reclamation districts.
Recreation and park districts.
Regional justice facility financing agencies.
Regional park and open-space districts.
Regional planning districts.
Regional transportation commissions.
Resort improvement districts.
Resource conservation districts.
River port districts.
Road maintenance districts.
Sanitary districts.
School districts of any kind or class.
School facilities improvement districts.
Separation of grade districts.
Service authorities for freeway emergencies.
Sewer districts.
Sewer maintenance districts.
Small craft harbor districts.
Special municipal tax districts.
Stone and pome fruit pest control districts.
Storm drain maintenance districts.
Storm drainage districts.
Storm drainage maintenance districts.
Storm water districts.
Toll tunnel authorities.
Traffic authorities.
Transit development boards.
Transit districts.
Unified and union school districts’ public libraries.
Vehicle parking districts.
Water agencies.
Water authorities.
Water conservation districts.
Water districts.
Water replenishment districts.
Water storage districts.
Wine grape pest and disease control districts.
Zones, improvement zones, or service zones of any public body.

(b) “Bonds” means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, all leases, installment purchase agreements, or similar agreements wherein the
obligor is one or more public bodies, all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of that body, all instruments payable from revenues or special funds of those public bodies, all certificates of participation evidencing interests in the leases, installment purchase agreements, or similar agreements, and all instruments funding, refunding, replacing, or amending any thereof or any indebtedness.

(c) “Hereafter” means any time subsequent to the effective date of this act.

(d) “Heretofore” means any time prior to the effective date of this act.

(e) “Now” means the effective date of this act.

SEC. 3. All public bodies heretofore organized or existing under, or under color of, any law, are hereby declared to have been legally organized and to be legally functioning as those public bodies. Every public body, heretofore described, shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of those public bodies regularly formed pursuant to law.

SEC. 4. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 5. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into those public bodies or for the annexation of those public bodies to any other public body or for the detachment, withdrawal, or exclusion of territory from any public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of territory or the consolidation, merger, or dissolution of those public bodies.

SEC. 6. All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds of any public body for any public purpose are hereby authorized, confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of public bodies and of any person, public officer, board, or agency heretofore done or taken upon the question of the authorization, issuance, sale, execution, delivery, or exchange of bonds.

All bonds of, or relating to, any public body heretofore issued shall be, in the form and manner issued and delivered, the legal, valid, and
binding obligations of the public body. All bonds of, or relating to, any public body heretofore awarded and sold to a purchaser and hereafter issued and delivered in accordance with the contract of sale and other proceedings for the award and sale shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued by ordinance, resolution, order, or other action adopted or taken by or on behalf of the public body and hereafter issued and delivered in accordance with that authorization shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued at an election and hereafter issued and delivered in accordance with that authorization shall be the legal, valid, and binding obligations of the public body. Whenever an election has heretofore been called for the purpose of submitting to the voters of any public body the question of issuing bonds for any public purpose, those bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in accordance with that authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 7.  (a) This act shall operate to supply legislative authorization that may be necessary to authorize, confirm, and validate any acts and proceedings heretofore taken pursuant to authority the Legislature could have supplied or provided for in the law under which those acts or proceedings were taken.

(b) This act shall be limited to the validation of acts and proceedings to the extent that the same can be effectuated under the state and federal Constitutions.

(c) This act shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter being legally contested or inquired into in any legal proceeding now pending and undetermined or that is pending and undetermined during the period of 30 days from and after the effective date of this act.

(d) This act shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter that has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(e) This act shall not operate to authorize, confirm, validate, or legalize a contract between any public body and the United States.

SEC. 8.  Any action or proceeding contesting the validity of any action or proceeding heretofore taken under any law, or under color of any law, for the formation, organization, or incorporation of any public body, or for any annexation thereto, detachment or exclusion therefrom, or other change of boundaries thereof, or for the consolidation, merger, or dissolution of any public bodies, or for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds
thereof upon any ground involving any alleged defect or illegality not effectively validated by the prior provisions of this act and not otherwise barred by any statute of limitations or by laches shall be commenced within six months of the effective date of this act; otherwise each and all of those matters shall be held to be valid and in every respect legal and incontestable. This act shall not extend the period allowed for legal action beyond the period that it would be barred by any presently existing valid statute of limitations.

SEC. 9. Nothing contained in this act shall be construed to render the creation of any public body, or any change in the boundaries of any public body, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed pursuant to Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code, is filed within the time and substantially in the manner required by those sections.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to validate the organization, boundaries, acts, proceedings, and bonds of public bodies as soon as possible, it is necessary that this act take immediate effect.

CHAPTER 44

An act to make an appropriation in augmentation of the Budget Act of 2001, relating to contingencies or emergencies, to take effect immediately as an appropriation for the usual current expenses of the state.

[Approved by Governor May 15, 2002. Filed with Secretary of State May 16, 2002.]

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

SECTION 1. The sum of three hundred twenty-seven million two hundred twenty-seven thousand dollars ($327,227,000) is hereby appropriated for expenditure for the 2001–02 fiscal year in augmentation and for the purposes of Contingencies or Emergencies as provided in Items 9840-001-0001, 9840-001-0494, and 9840-001-0988 of Section 2.00 of the Budget Act of 2001 (Chapter 106 of the Statutes of 2001), in accordance with the following schedule:
(a) Two hundred thirty million six hundred four thousand dollars ($230,604,000) from the General Fund to the Augmentation for Contingencies or Emergencies in Item 9840-001-0001.

(b) Forty-nine million five hundred ninety-six thousand dollars ($49,596,000) from unallocated special funds to the Augmentation for Contingencies or Emergencies in Item 9840-001-0494.

(c) Forty-seven million twenty-seven thousand dollars ($47,027,000) from unallocated nongovernmental cost funds to the Augmentation for Contingencies or Emergencies in Item 9840-001-0988.

SEC. 2. The Director of Finance may withhold authorization for the expenditure of funds provided in this section until such time as, and to the extent that, preliminary estimates of potential deficiencies are verified.

SEC. 3. This act makes an appropriation for the usual current expenses of the state within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 45

An act to add Chapter 7.5 (commencing with Section 11790) to, and to repeal Article 7 (commencing with Section 11751) of Chapter 7 of Part 1 of Division 3 of Title 2 of the Government Code, relating to information technology, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 19, 2002. Filed with Secretary of State May 20, 2002.]

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

SECTION 1. Article 7 (commencing with Section 11751) of Chapter 7 of Part 1 of Division 3 of Title 2 of the Government Code is repealed.

SEC. 2. Chapter 7.5 (commencing with Section 11790) is added to Part 1 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 7.5. STATE DATA CENTERS

Article 1. Hawkins Data Center

11790. (a) There is in the Department of Justice the Hawkins Data Center.
(b) The data center shall be under the supervision of a data center director who shall be appointed by the Attorney General pursuant to civil service. The data center director shall be responsible for the efficient and effective management and operation of the data center.

**Article 2. Stephen P. Teale Data Center**

11792. (a) There is in the Business, Transportation and Housing Agency the Stephen P. Teale Data Center.
(b) (1) The data center shall be under the supervision of a data center director who shall be appointed by the Governor, subject to confirmation by the Senate, and serve at the pleasure of the Governor.
(2) The data center director shall receive a salary approved by the Department of Personnel Administration.
(3) The data center director shall be responsible for the efficient and effective management and operation of the data center. The data center director shall continue to communicate regularly with the Director of Information Technology regarding future needs of the center and the likely impact of emerging technologies.

11793. (a) There is in the State Treasury, the Stephen P. Teale Data Center Revolving Fund, which, notwithstanding Section 13340, is continuously appropriated without regard to fiscal years for the purposes of this article for the payment of expenses incurred by the Stephen P. Teale Data Center.
(b) Moneys available in the fund, not to exceed a total of 1 percent of the data center’s current fiscal year budget, may be allocated by the director of the data center to projects that demonstrate or develop advanced information technologies as solutions to information processing problems. The expenditures for these allocations shall be provided for out of the unencumbered surplus of the fund. No expenditure may be made pursuant to this subdivision during any fiscal year in which there is no unencumbered surplus in the fund.
(c) The fund shall consist of all of the following:
(1) All moneys appropriated to the fund in accordance with law.
(2) All moneys received into the State Treasury from any source in payment of electronic data-processing services rendered by the data center or for other services rendered by the data center.
(3) All moneys from outstanding balances of prior fiscal years that have not reverted to the General Fund.
(4) The balance remaining in the fund at the end of any fiscal year whether the moneys received are from an appropriation or from payments for services rendered.
(d) If the balance remaining in the fund at the end of any fiscal year exceeds 25 percent of the data center’s current fiscal year budget, the
billing rates for services rendered shall be adjusted downward for the following fiscal year.

e) If the data center is consolidated with other state information technology centers, the fund shall cease to exist and any remaining moneys in the fund shall be distributed in accordance with Section 16304.9.

11794. (a) The Stephen P. Teale Data Center may establish rates and collect payments from state agencies for providing services to those agencies. The methodology for computing costs and billing rates shall be subject to the approval of the Director of Finance.

(b) (1) All money received by the data center pursuant to this section shall be deposited in the Stephen P. Teale Data Center Revolving Fund.

(2) In order to ensure that there is adequate cash in the fund, the data center may require monthly payments in advance by client agencies, based on estimated billings. By mutual agreement between the data center and the applicable state agency, a state agency may make monthly, quarterly, or annual payments in advance or arrears.

(c) Consistent with subdivision (b), and pursuant to Section 11255, the Controller shall transfer any amounts so authorized by the data center. The data center shall notify each affected state agency upon requesting the Controller to make the transfer.

Article 3. California Health and Human Services Agency Data Center

11796. (a) There is in the California Health and Human Services Agency the California Health and Human Services Agency Data Center.

(b) The data center shall be under the supervision of a data center director who shall be appointed by the Secretary of the California Health and Human Services Agency pursuant to civil service. The data center director shall be responsible for the efficient and effective management and operation of the data center.

(c) (1) The Legislature finds and declares that the name of the Health and Welfare Agency Data Center was changed to the California Health and Human Services Agency Data Center by Chapter 873 of the Statutes of 1999, effective January 1, 2000. The Legislature further finds and declares that this change of name was and is not intended to alter or modify any power, right, obligation, or duty of the data center that is found in statute, regulation, or contract.

(2) Any reference in statute, regulation, or contract to the Health and Welfare Agency Data Center shall be deemed to refer to the California Health and Human Services Agency Data Center.

11797. (a) There is in the State Treasury, the California Health and Human Services Agency Data Center Revolving Fund, which,
notwithstanding Section 13340, is continuously appropriated without regard to fiscal years for the purposes of this article for the payment of expenses incurred by the data center.

(b) Moneys available in the fund, not to exceed a total of 1 percent of the data center’s current fiscal year budget, may be allocated by the director of the data center to projects that demonstrate or develop advanced information technologies as solutions to information processing problems. The expenditures for these allocations shall be provided for out of the unencumbered surplus of the fund. No expenditure may be made pursuant to this subdivision during any fiscal year in which there is no unencumbered surplus in the fund.

(c) The fund shall consist of all of the following:
(1) All moneys appropriated to the fund in accordance with law.
(2) All moneys received into the State Treasury from any source in payment of electronic data-processing services rendered by the data center or for other services rendered by the data center.
(3) All moneys from outstanding balances of prior fiscal years that have not reverted to the General Fund.
(4) The balance remaining in the fund at the end of any fiscal year whether the moneys received are from an appropriation or from payments for services rendered.
(d) If the balance remaining in the fund at the end of any fiscal year exceeds 25 percent of the data center’s current fiscal year budget, the excess amount shall be used to reduce the billing rates for services rendered during the following fiscal year.
(e) If the data center is consolidated with other state information technology centers, the fund shall cease to exist and any remaining moneys in the fund shall be distributed in accordance with Section 16304.9.
(f) Any reference to the prior Health and Welfare Data Center Revolving Fund shall be deemed to refer to the California Health and Human Services Agency Data Center Revolving Fund.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the efficient operation of state data centers as specified in this act may be provided for at the earliest possible time, it is necessary that this act take effect immediately.
CHAPTER 46

An act to amend Section 50801.5 of the Health and Safety Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 21, 2002. Filed with Secretary of State May 22, 2002.]

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

SECTION 1. The Legislature finds and declares all of the following:
(a) Runaway and homeless youth 24 years of age or younger are much more likely to be victims of abuse from adults than their peers.
(b) The prevalence of sexual abuse alone among homeless and runaway youth is 23 percent to 33 percent, while only 2 percent to 3 percent of the general youth population has experienced sexual abuse.
(c) Precluding shelter or transitional housing facilities from restricting occupancy on the basis of age may place persons 24 years of age or younger at risk for further abuse or hinder their recovery.

SEC. 2. Section 50801.5 of the Health and Safety Code is amended to read:

50801.5. (a) The department shall adopt regulations for the administration of the Emergency Housing and Assistance Program. The regulations shall govern the equitable distribution of funds in accordance with the intent and provisions of this chapter, and shall ensure that the program is administered in an effective and efficient manner. The regulations shall provide for reasonable delegation of authority to designated local boards, ensure that local priorities and criteria are reasonably designed to address the needs of homeless people, and ensure that designated local boards meet reasonable standards of inclusiveness, accountability, nondiscrimination, and integrity.
(b) The regulations adopted pursuant to this section shall ensure that emergency shelter and services shall be provided on a first-come-first-served basis for whatever time periods are established by the shelter. No individual or household may be denied shelter or services because of an inability to pay. Nothing in this provision shall be construed to preclude a shelter from accepting payment vouchers provided through any other public or private program so long as no shelter beds are reserved beyond sundown for that purpose. Notwithstanding Section 11135 of the Government Code or any other provision of law, nothing in this section shall be construed to preclude a provider of emergency shelter or transitional housing from restricting occupancy on the basis of sex or, in the case of an emergency shelter or transitional housing offered exclusively to persons 24 years of age or
younger, on the basis of age. However, in the case of families, providers of emergency shelter or transitional housing shall provide, to the greatest extent feasible, adequate facilities within their range of services so that all members of a family may be housed together, regardless of age and gender.

SEC. 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 reinstate funding for homeless youth shelters, it is necessary that this act take effect immediately as an urgency statute.

CHAPTER 47

An act to amend Section 25503.6 of the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 21, 2002. Filed with Secretary of State May 22, 2002.]

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

SECTION 1. Section 25503.6 of the Business and Professions Code is amended to read:

25503.6. (a) Notwithstanding any other provision of this chapter, a beer manufacturer, the holder of a winegrower’s license, or a distilled spirits manufacturer, or distilled spirits manufacturer’s agent may purchase advertising space and time from, or on behalf of, an on-sale retail licensee subject to all of the following conditions:

(1) The on-sale licensee is the owner, manager, agent of the owner, assignee of the owner’s advertising rights, or the major tenant of the owner of any of the following:

(A) An outdoor stadium or a fully enclosed arena with a fixed seating capacity in excess of 10,000 seats located in Sacramento County.

(B) A fully enclosed arena with a fixed seating capacity in excess of 18,000 seats located in Orange County or Los Angeles County.

(C) An outdoor stadium or fully enclosed arena with a fixed seating capacity in excess of 8,500 seats located in Kern County.

(D) An exposition park of not less than 50 acres that includes an outdoor stadium with a fixed seating capacity in excess of 8,000 seats and a fully enclosed arena with an attendance capacity in excess of 4,500 people, located in San Bernardino County.
(E) An outdoor stadium with a fixed seating capacity in excess of 10,000 seats located in Yolo County.

(F) An outdoor stadium and a fully enclosed arena with fixed seating capacities in excess of 10,000 seats located in Fresno County.

(G) An athletic and entertainment complex of not less than 50 acres that includes within its boundaries an outdoor stadium with a fixed seating capacity of at least 8,000 seats and a second outdoor stadium with a fixed seating capacity of at least 3,500 seats located within Riverside County.

(H) An outdoor stadium with a fixed seating capacity in excess of 1,500 seats located in Tulare County.

(I) A motorsports entertainment complex of not less than 50 acres that includes within its boundaries an outdoor speedway with a fixed seating capacity of at least 50,000 seats, located within San Bernardino County.

(2) The outdoor stadium or fully enclosed arena described in paragraph (1) is not owned by a community college district.

(3) The advertising space or time is purchased only in connection with the events to be held on the premises of the stadium or arena owned by the on-sale licensee.

(4) The on-sale licensee serves other brands of beer distributed by a competing beer wholesaler in addition to the brand manufactured or marketed by the beer manufacturer, other brands of wine distributed by a competing wine wholesaler in addition to the brand produced by the winegrower, and other brands of distilled spirits distributed by a competing distilled spirits wholesaler in addition to the brand manufactured or marketed by the distilled spirits manufacturer or distilled spirits manufacturer’s agent that purchased the advertising space or time.

(b) Any purchase of advertising space or time pursuant to subdivision (a) shall be conducted pursuant to a written contract entered into by the beer manufacturer, the holder of the winegrower’s license, the distilled spirits manufacturer, or the distilled spirits manufacturer’s agent and the on-sale licensee.

(c) Any beer manufacturer or holder of a winegrower’s license, any distilled spirits manufacturer, or any distilled spirits manufacturer’s agent who, through coercion or other illegal means, induces, directly or indirectly, a holder of a wholesaler’s license to fulfill all or part of those contractual obligations entered into pursuant to subdivision (a) or (b) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space, time, or costs involved in the contract, whichever is greater, plus ten thousand dollars ($10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.
(d) Any on-sale retail licensee, as described in subdivision (a), who, directly or indirectly, solicits or coerces a holder of a wholesaler’s license to solicit a beer manufacturer, a holder of a winegrower’s license, a distilled spirits manufacturer, or a distilled spirits manufacturer’s agent to purchase advertising space or time pursuant to subdivision (a) or (b) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, whichever is greater, plus ten thousand dollars ($10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

(e) For the purposes of this section, “beer manufacturer” includes any holder of a beer manufacturer’s license, any holder of an out-of-state beer manufacturer’s certificate, or any holder of a beer and wine importer’s general license.

SEC. 2. The Legislature hereby finds and declares that a special statute is necessary and that a general statute cannot be made applicable, within the meaning of Section 16 of Article IV of the California Constitution, because of unique circumstances and concerns applicable to certain facilities in Tulare County and San Bernardino County.

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 ensure the fair and efficient application of the alcoholic beverage control licensing laws with respect to eligible facilities located in San Bernardino County and Tulare County, it is necessary that this act take effect immediately.

CHAPTER 48

An act to amend Section 3099 of, and to add Sections 3099.2, 3099.3, and 3099.4 to, the Labor Code, relating to electricians, and making an appropriation therefor.
The people of the State of California do enact as follows:

SECTION 1. Section 3099 of the Labor Code is amended to read:

3099. (a) The Division of Apprenticeship Standards shall do all of the following:
(1) On or before July 1, 2001, establish and validate minimum standards for the competency and training of electricians through a system of testing and certification.
(2) On or before March 1, 2000, establish an advisory committee and panels as necessary to carry out the functions under this section. There shall be contractor representation from both joint apprenticeship programs and unilateral nonunion programs in the electrical contracting industry.
(3) On or before July 1, 2003, establish an electrical certification curriculum committee comprised of representatives of the State Department of Education, the California Community Colleges, and the division. The committee shall establish written educational curriculum standards for enrollees in training programs established pursuant to Section 3099.4.
(4) On or before July 1, 2001, establish fees necessary to implement this section.
(5) On or before July 1, 2001, establish and adopt regulations to enforce this section.
(6) Issue certification cards to electricians who have been certified pursuant to this section. Fees collected pursuant to paragraph (3) are continuously appropriated in an amount sufficient to pay the costs of issuing certification cards, and that amount may be expended for that purpose by the Division of Apprenticeship Standards.
(b) There shall be no discrimination for or against any person based on membership or nonmembership in a union.
(c) As used in this section, “electricians” includes all persons who engage in the connection of electrical devices for electrical contractors licensed pursuant to Section 7058 of the Business and Professions Code, specifically, contractors classified as electrical contractors in the Contractors’ State License Board Rules and Regulations. This section does not apply to electrical connections under 100 volt-amperes. This section does not apply to persons performing work to which Section 7042.5 of the Business and Professions Code is applicable, or to electrical work ordinarily and customarily performed by stationary engineers. This section does not apply to electrical work in connection with the installation, operation, or maintenance of temporary or portable
electrical equipment performed by technicians in the theatrical, motion picture production, television, hotel, exhibition, or trade show industries.

SEC. 2. Section 3099.2 is added to the Labor Code, to read:

3099.2. (a) Persons who perform work as electricians shall become certified pursuant to Section 3099 by January 1, 2005. After January 1, 2005, uncertified persons may not perform electrical work for which certification is required.

(b) Certification is required only for those persons who perform work as electricians for contractors licensed as Class C-10 electrical contractors under the Contractors’ State License Board Rules and Regulations. Certification is not required for persons performing work for contractors licensed as Class C-7 low voltage systems or Class C-45 electric sign contractors as long as the work performed is within the scope of the Class C-7 or Class-45 license, including incidental and supplemental work as defined in Section 7059 of the Business and Professions Code, and regardless of whether the same contractor is also licensed as a Class C-10 contractor.

(c) The division may establish different certification categories corresponding to the types of electrical work performed by contractors.

(d) Notwithstanding subdivision (a), certification is not required for registered apprentices performing electrical work as part of an apprenticeship program approved under this chapter, a federal Bureau of Apprenticeship Training program, or a state apprenticeship program authorized by the federal Bureau of Apprenticeship Training. An apprentice who is within one year of completion of his or her term of apprenticeship shall be permitted to take the certification examination and, upon passing the examination, shall be certified immediately upon completion of the term of apprenticeship.

(e) Notwithstanding subdivision (a), certification is not required for any person employed pursuant to Section 3099.4.

(f) Notwithstanding subdivision (a), certification is not required for a nonresidential lighting trainee (1) who is enrolled in an on-the-job instructional training program approved by the Chief of the Division of Apprenticeship Standards pursuant to Section 3090, and (2) who is under the onsite supervision of a nonresidential lighting technician certified pursuant to Section 3099.

(g) Notwithstanding subdivision (a), the qualifying person for a Class C-10 electrical contractor license issued by the Contractors State License Board need not also be certified pursuant to Section 3099 to perform electrical work for that licensed contractor or to supervise an uncertified person employed by that licensed contractor pursuant to Section 3099.4.
(h) For the purposes of this section, “electricians” has the same meaning as the definition set forth in Section 3099.

SEC. 3. Section 3099.3 is added to the Labor Code, to read:

3099.3. The Division of Apprenticeship Standards shall do all of the following:

(a) Make information about electrician certification available in non-English languages spoken by a substantial number of construction workers, as defined in Section 7296.2 of the Government Code.

(b) Provide for the administration of certification tests in non-English languages spoken by a substantial number of applicants, as defined in Section 7296.2 of the Government Code, except insofar as the ability to understand warning signs, instructions, and certain other information in English is necessary for safety reasons.

(c) Ensure, in conjunction with the California Apprenticeship Council, that by no later than January 1, 2003, all electrician apprenticeship programs approved under this chapter that impose minimum formal education requirements as a condition of entry provide for reasonable alternative means of satisfying those requirements.

(d) Ensure, in conjunction with the California Apprenticeship Council, that by no later than January 1, 2003, all electrician apprenticeship programs approved under this chapter have adopted reasonable procedures for granting credit toward a term of apprenticeship for other vocational training and on-the-job training experience.

(e) Report to the Legislature by January 1, 2004, on the status of electrician certification, including all of the following:

1. The number of persons who have been certified pursuant to Section 3099.
2. The number of persons enrolled in electrician apprenticeship programs.
3. The number of persons who have registered pursuant to Section 3099.4.
4. The estimated number of individuals performing work for Class C-10 electrical contractors for which certification will be required after January 1, 2005, who have not yet been certified and are not enrolled in apprenticeship programs or registered pursuant to Section 3099.4.
5. Whether enforcement of the January 1, 2005, deadline for certification will cause a shortage of electricians in California.
6. Whether persons who wish to become certified electricians will have an adequate opportunity to pass the certification exam, to register pursuant to Section 399.4, or to enroll in an apprenticeship program prior to January 1, 2005.

SEC. 4. Section 3099.4 is added to the Labor Code, to read:
3099.4. (a) After January 1, 2005, an uncertified person may perform electrical work for which certification is required under Section 3099 in order to acquire the necessary on-the-job experience for certification, if all of the following requirements are met:

(1) The person is registered with the Division of Apprenticeship Standards. A list of current registrants shall be maintained by the division and made available to the public upon request.

(2) The person either has completed or is enrolled in an approved curriculum of classroom instruction.

(3) The employer attests that the person shall be under the direct supervision of an electrician certified pursuant to Section 3099 who is responsible for supervising no more than one uncertified person. An employer who is found by the division to have failed to provide adequate supervision may be barred by the division from employing uncertified individuals pursuant to this section in the future.

(b) For purposes of this section, an “approved curriculum of classroom instruction” means a curriculum of classroom instruction approved by the electrician certification curriculum committee established pursuant to paragraph (2) of subdivision (a) of Section 3099 and provided under the jurisdiction of the State Department of Education or the Board of Governors of the California Community Colleges.

(c) For purposes of this section, a person is “enrolled” in an approved curriculum of classroom instruction if the person is attending classes on a full-time or part-time basis toward the completion of such a curriculum.

(d) Registration under this section shall be renewed annually and the registrant shall provide to the division certification of the class work completed and on-the-job experience acquired since the prior registration.

(e) The division shall establish registration fees necessary to implement this section, not to exceed twenty-five dollars ($25) for the initial registration. There shall be no fee for annual renewal of registration. Fees collected are continuously appropriated in an amount sufficient to administer this section and that amount may be expended by the division for this purpose.

(f) The division shall issue regulations to implement this section.

(g) For purposes of Section 1773, persons employed pursuant to this section do not constitute a separate craft, classification, or type of worker.

(h) Notwithstanding any other provision of law, an uncertified person who has completed an approved curriculum of classroom instruction and is currently registered with the division may take the certification examination. The person shall be certified upon passing the examination and satisfactorily completing the requisite number of on-the-job hours
required for certification. A person who passes the examination prior to completing the requisite hours of on-the-job experience shall continue to comply with subdivision (d) of this section.

CHAPTER 49

An act to add Section 54204 to the Education Code, relating to school desegregation.

[Approved by Governor May 29, 2002. Filed with Secretary of State May 29, 2002.]

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

SECTION 1. Section 54204 is added to the Education Code, to read:
54204. Notwithstanding Section 54203, a school district, or multidistrict consortium or collaborative, receiving funds pursuant to this chapter may expend the funds to continue operating a voluntary or court-ordered desegregation program that was established before the enactment of this chapter, including a court-ordered program that the district continues operating after the court order establishing the program is dissolved.

CHAPTER 50

An act to amend Section 316 of the Pajaro Valley Water Management Agency Act (Chapter 257 of the Statutes of 1984), relating to water.

[Approved by Governor May 29, 2002. Filed with Secretary of State May 29, 2002.]

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

SECTION 1. Section 316 of the Pajaro Valley Water Management Agency Act (Chapter 257 of the Statutes of 1984) is amended to read:
Sec. 316. “Supplemental water” means surface water or groundwater imported from outside the watershed or watersheds of the groundwater basin, flood waters that are conserved and saved within the watershed or watersheds which would otherwise have been lost or would not have reached the groundwater basin, and recycled water.
An act to amend Section 51220.3 of the Education Code, relating to instruction, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 4, 2002. Filed with Secretary of State June 4, 2002.]

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

SECTION 1. Section 51220.3 of the Education Code is amended to read:

51220.3. (a) Commencing with the 2005–06 school year, a school district may not, when calculating a pupil’s grade point average, assign extra grade weighting to a course that covers a subject required for admission to the University of California or the California State University unless the school district submits a description of the course curriculum to the Office of the President of the University of California for approval and receives confirmation from the University of California that it approves the course for extra grade weighting and includes the course on its list of honors courses. A course whose description is submitted to the University of California for approval would be reviewed through the university’s existing articulation process that awards extra credit for grade weighting only for courses that provide the depth, breadth, and rigor that is substantially similar to an advanced placement course, an entry level college course, or a community college level course.

(b) (1) Commencing with the 2005–06 school year, this section shall apply to pupils in grade 9.

(2) Commencing with the 2006–07 school year, this section shall apply to pupils in grades 9 and 10.

(3) Commencing with the 2007–08 school year, this section shall apply to pupils in grades 9 to 11, inclusive.

(4) Commencing with the 2008–09 school year, this section shall apply to pupils in grades 9 to 12, inclusive.

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

In order to ensure that pupils who are currently enrolled in high school are not subject to two different methods of calculation of their grade
point averages during their high school years, it is necessary that this act take effect immediately.

CHAPTER 52

An act to amend Sections 2610, 3254, 3255, 3260, 3261, 3262, and 3263 of, and to add Section 3260.5 to, the Unemployment Insurance Code, relating to disability insurance.

[Approved by Governor June 5, 2002. Filed with Secretary of State June 6, 2002.]

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

SECTION 1. Section 2610 of the Unemployment Insurance Code is amended to read:

2610. "Disability base period," with respect to an individual who does not have an unexpired benefit year for unemployment compensation benefits, means for disability benefit periods beginning in October, November, or December, the four calendar quarters ended in the next preceding month of June; the disability base period for disability benefit periods beginning in January, February, or March, shall be the four calendar quarters ended in the next preceding month of September; the disability base period for disability benefit periods beginning in April, May, or June, shall be the four calendar quarters ended in the next preceding month of December; the disability base period for disability benefit periods beginning in July, August, or September shall be the four calendar quarters ended with the next preceding month of March.

SEC. 2. Section 3254 of the Unemployment Insurance Code is amended to read:

3254. The Director of Employment Development shall approve any voluntary plan, except one filed pursuant to Section 3255, as to which he or she finds that there is at least one employee in employment and all of the following exist:

(a) The rights afforded to the covered employees are greater than those provided for in Chapter 2 (commencing with Section 2625) of this part.

(b) The plan has been made available to all of the employees of the employer employed in this state or to all employees at any one distinct, separate establishment maintained by the employer in this state. "Employees" as used in this subdivision includes individuals in partial or other forms of short-time employment and employees not in
employment as the Director of Employment Development shall prescribe by authorized regulations.

(c) A majority of the employees of the employer employed in this state or a majority of the employees employed at any one distinct, separate establishment maintained by the employer in this state have consented to the plan.

(d) If the plan provides for insurance the form of the insurance policies to be issued have been approved by the Insurance Commissioner and are to be issued by an admitted disability insurer.

(e) The employer has consented to the plan and has agreed to make the payroll deductions required, if any, and transmit the proceeds to the plan insurer, if any.

(f) The plan provides for the inclusion of future employees.

(g) The plan will be in effect for a period of not less than one year and, thereafter, continuously unless the Director of Employment Development finds that the employer or a majority of its employees employed in this state covered by the plan have given notice of the withdrawal from the plan. The notice shall be filed in writing with the Director of Employment Development and shall be effective only on the anniversary of the effective date of the plan next following the filing of the notice, but in any event not less than 30 days from the time of the filing of the notice; except that the plan may be withdrawn on the operative date of any law increasing the benefit amounts provided by Sections 2653 and 2655 or the operative date of any change in the rate of worker contributions as determined by Section 984, if notice of the withdrawal from the plan is transmitted to the Director of Employment Development not less than 30 days prior to the operative date of that law or change. If the plan is not withdrawn on 30 days’ notice because of the enactment of a law increasing benefits or because of a change in the rate of worker contributions as determined by Section 984, the plan shall be amended to conform to that increase or change on the operative date of the increase or change.

(h) The amount of deductions from the wages of an employee in effect for any plan shall not be increased on other than an anniversary of the effective date of the plan except to the extent that any increase in the deductions from the wages of an employee allowed by Section 3260 permits that amount to exceed the amount of deductions in effect.

(i) The approval of the plan or plans will not result in a substantial selection of risks adverse to the Disability Fund.

SEC. 3. Section 3255 of the Unemployment Insurance Code is amended to read:

3255. When workers are engaged in an employment that normally involves working for several employers in the same industry interchangeably, and several employers or some of them cooperate to
establish a plan for the payment of wages at a central place or places, and
have appointed an agent under Section 1096, that agent, or a majority of
workers regularly paid through a central place or places, or both, may
apply to the Director of Employment Development for approval of a
voluntary plan for the payment of disability benefits applicable to all
employees whose wages are paid at one or more central place or places.
The Director of Employment Development shall approve any voluntary
plan under this section as to which he or she finds that all of the following
exist:

(a) The rights afforded to the covered employees are greater than
those provided for in Chapter 2 (commencing with Section 2625) of this
part, and are separately stated and designated “unemployment
compensation disability benefits” separate and distinct from other
benefits, if any.

(b) The plan applies to all employees whose wages are paid at a
central place or places with respect to all employment for which wages
are paid at central place or places.

(c) Seventy-five percent of the workers regularly paid at the central
place or places have consented to the plan prior to the filing of the initial
application for approval.

(d) If the plan provides for insurance the form of the insurance
policies to be issued have been approved by the Insurance Commissioner
and are to be issued by an admitted disability insurer.

(e) All employers paying wages through the central place or places
have agreed to participate in the plan and the agent appointed under
Section 1096 has agreed to make the payroll deductions required, if any,
and transmit the proceeds to the plan insurer, if any.

(f) The plan provides for the inclusion of all future employees paid
at the central place or places.

(g) The plan is to be in effect for a period of not less than one year and,
thereafter, continuously unless the Director of Employment
Development finds that the agent or a majority of the employees
regularly paid at the central place or places has given written notice of
withdrawal from the plan. The notice shall be filed in writing with the
Director of Employment Development at least 30 days before it is to
become effective and, upon the filing, will be effective only as to wages
paid after the beginning of the calendar quarter next occurring on or after
the anniversary of the effective date of the plan; except that the plan may
be withdrawn on the operative date of any law increasing the benefit
amounts provided by Sections 2653 and 2655 or the operative date of
any change in the rate of worker contributions as determined by Section
984, if notice of the withdrawal from the plan is transmitted to the
Director of Employment Development not less than 30 days prior to the
operative date of that law or change. If the plan is not withdrawn on 30
days' notice because of the enactment of a law increasing benefits or because of a change in the rate of worker contributions as determined by Section 984, the plan shall be amended to conform to that increase or change on the operative date of the increase or change.

(h) The amount of deductions from the wages of an employee in effect for any plan shall not be increased on other than an anniversary of the effective date of the plan except to the extent that any increase in the deductions from the wages of an employee allowed by Section 3260 permits that amount to exceed the amount of deductions in effect.

(i) The approval of the plan or plans will not result in a substantial selection of risks adverse to the Disability Fund.

SEC. 4. Section 3260 of the Unemployment Insurance Code is amended to read:

3260. An employer may, but need not, assume all or part of the cost of the plan, and may deduct from the wages of an employee covered by the plan, for the purpose of providing the disability benefits specified in this part, an amount not in excess of that which would be required by Sections 984 and 985 if the employee were not covered by the plan.

SEC. 5. Section 3260.5 is added to the Unemployment Insurance Code, to read:

3260.5. (a) All deductions from the wages of an employee remaining in the possession of the employer upon its voluntary withdrawal of the plan as a result of plan contributions being in excess of plan costs, that are not disposed of in conformity with authorized regulations of the Director of Employment Development, shall be remitted to the department and deposited in the Disability Fund. If an employer fails to remit any deductions to the Disability Fund, the Director of Employment Development shall assess the amount thereof against the employer.

(b) The provisions of Article 8 (commencing with Section 1126) of Chapter 4 of Part 1, with respect to the assessment of contributions, and the provisions of Chapter 7 (commencing with Section 1701) of Part 1, with respect to the collection of contributions, shall apply to assessments provided by this section, except that interest may not accrue until 30 days after issuance of the notice of assessment.

(c) With respect to individuals covered by a voluntary plan on January 1 of any calendar year for which the limitation on wages under Section 985 is increased or the tax rate under Section 984 is increased, the amount of the deduction on or after that date may be increased to apply to not more than the maximum limitation on taxable wages or to not more than the maximum tax rate, as applicable, without any further consent of the individual or approval of the Director of Employment Development, but only if such increase in the amount of the deductions is made effective as of January 1 of the affected calendar year.
SEC. 6. Section 3261 of the Unemployment Insurance Code is amended to read:

3261. All employee contributions and income arising therefrom received or retained by an employer under an approved voluntary plan are trust funds that are not considered to be part of an employer’s assets. An employer shall either maintain a separate, specifically identifiable account for voluntary plan trust funds in a financial institution, or an employer may transmit voluntary plan trust funds, including any earned interest or income, directly to the admitted disability insurer. If an employer, with prior approval from the Director of Employment Development, invests voluntary plan trust funds in securities purchased through a commercial bank under Article 4 of Chapter 10 of Division 1 of the Financial Code, the securities account shall be separately identifiable from any other securities accounts maintained by the employer. In the event of commingling of voluntary plan trust funds, or the bankruptcy or insolvency of the employer, or the appointment of a receiver for the business of the employer, those voluntary plan trust funds are entitled to the same preference as are the claims of the state under Sections 1701 and 1702.

SEC. 7. Section 3262 of the Unemployment Insurance Code is amended to read:

3262. (a) The Director of Employment Development may terminate any voluntary plan if the director finds that there is danger that the benefits accrued or to accrue will not be paid, that the security for the payment is insufficient, or for other good cause shown. The Director of Employment Development shall give notice of his or her intention to terminate a plan to the employer, employee group, and insurer. The notice shall state the effective date and the reason for the withdrawal. The Director of Employment Development may change or stay the effective date of the termination.

(b) Notwithstanding Section 3260.5, on the effective date of the termination of a plan by the Director of Employment Development, all moneys in the plan, including moneys paid by the employer, moneys paid by the employee, moneys owed to the voluntary plan by the employer but not yet paid to the plan, and any interest accrued on all these moneys, shall be remitted to the department and deposited into the Disability Fund.

(c) If an employer fails to remit all moneys owed to the Disability Fund after termination of the plan, the Director of Employment Development shall make an assessment against the employer equal to the amount of the moneys owed. The Director of Employment Development shall also make an assessment against the employer for all benefits paid from the Disability Fund after the termination of the plan,
less any moneys received from the employer after the termination of the plan.

(d) The provisions of Article 8 (commencing with Section 1126) of Chapter 4 of Part 1, with respect to the assessment of moneys, and the provisions of Chapter 7 (commencing with Section 1701) of Part 1, with respect to the collection of moneys owed, shall apply to assessments authorized under this section, except that interest may not accrue until 30 days after issuance of the notice of assessment.

(e) The employer, employee group or insurer may, within 10 days from mailing or personal service of the notice, appeal to the Appeals Board. The 10-day period may be extended for good cause. The Appeals Board may prescribe by regulation the time, manner, method and procedure through which it may determine appeals under this section.

(f) The payment of benefits from the Disability Fund and the transfer of moneys in the voluntary plan may not be delayed during an employer’s appeal of the termination of a voluntary plan.

SEC. 8. Section 3263 of the Unemployment Insurance Code is amended to read:

3263. (a) An employee is no longer covered by an approved voluntary plan if a disability arose after the employment relationship with the voluntary plan employer ends, or if the Director of Employment Development terminates a voluntary plan in accordance with Section 3262.

(b) An employee who has ceased to be covered by an approved voluntary plan shall, if otherwise eligible, thereupon immediately become entitled to benefits from the Disability Fund to the same extent as though there had been no exemption from contributions as provided in this chapter.

CHAPTER  53

An act to amend Sections 9255 and 9265 of the Elections Code, relating to municipal elections.

[Approved by Governor June 5, 2002. Filed with Secretary of State June 6, 2002.]

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

SECTION 1. Section 9255 of the Elections Code is amended to read:

9255. (a) The following city or city and county charter proposals shall be submitted to the voters at either a special election called for that
purpose, at any established municipal election date, or at any established
election date pursuant to Section 1000, provided that there are at least
88 days before the election:

(1) A charter proposed by a charter commission, whether elected or
appointed by a governing body. A charter commission may also submit
a charter pursuant to Section 34455 of the Government Code.

(2) An amendment or repeal of a charter proposed by the governing
body of a city or a city and county on its own motion.

(3) An amendment or repeal of a city charter proposed by a petition
signed by 15 percent of the registered voters of the city.

(4) An amendment or repeal of a city and county charter proposed by
a petition signed by 10 percent of the registered voters of the city and
county.

(5) A recodification of the charter proposed by the governing body on
its own motion, provided that the recodification does not, in any manner,
substantially change the provisions of the charter.

(b) Charter proposals by the governing body and charter proposals by
petition of the voters may be submitted at the same election.

(c) The total number of registered voters of the city or city and county
shall be determined according to the county elections official’s last
official report of registration to the Secretary of State that was effective
at the time the notice required pursuant to Section 9256 was given.

SEC. 2. Section 9265 of the Elections Code is amended to read:
9265. The petition shall be filed with the elections official by the
proponents, or by any person or persons authorized in writing by the
proponents. All sections of the petition shall be filed at one time, and a
petition section submitted subsequently may not be accepted by the
elections official. The petition shall be filed (1) within 180 days from the
date of receipt of the title and summary, or (2) after termination of any
action for a writ of mandate pursuant to Section 9204, and, if applicable,
receipt of an amended title or summary, or both, whichever comes later.

CHAPTER  54

An act to amend Sections 15601, 15610.17, 15610.23, 15610.37,
15610.50, 15610.55, 15610.57, 15630, 15633.5, 15634, 15659, 15701,
15760, 15763, and 15765 of, to amend and renumber Section 15751 of,
to amend, renumber, and add Section 15750 of, to amend and repeal
Section 15653.5 of, to add Sections 15610.19, 15610.39, and 15655.5
to, to repeal Sections 15701.1, 15701.15, 15701.2, 15701.35, 15752,
15753, 15753.5, and 15761 of, and to repeal the heading of Chapter 13.5
The people of the State of California do enact as follows:

SECTION 1. Section 15601 of the Welfare and Institutions Code is amended to read:

15601. The purposes of this act are to:

(a) Require health practitioners, care custodians, clergy members, and employees of county adult protective services agencies and local law enforcement agencies to report known or suspected cases of abuse of elders and dependent adults and to encourage community members in general to do so.

(b) Collect information on the numbers of abuse victims, circumstances surrounding the act of abuse, and other data which will aid the state in establishing adequate services to aid all victims of abuse in a timely, compassionate manner.

(c) Provide for protection under the law for all those persons who report suspected cases of abuse, provided that the report is not made with malicious intent.

SEC. 2. Section 15610.17 of the Welfare and Institutions Code is amended to read:

15610.17. “Care custodian” means an administrator or an employee of any of the following public or private facilities or agencies, or persons providing care or services for elders or dependent adults, including members of the support staff and maintenance staff:

(a) Twenty-four-hour health facilities, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

(b) Clinics.

(c) Home health agencies.

(d) Agencies providing publicly funded in-home supportive services, nutrition services, or other home and community-based support services.

(e) Adult day health care centers and adult day care.

(f) Secondary schools that serve 18- to 22-year-old dependent adults and postsecondary educational institutions that serve dependent adults or elders.

(g) Independent living centers.

(h) Camps.

(i) Alzheimer’s Disease day care resource centers.
(j) Community care facilities, as defined in Section 1502 of the Health and Safety Code, and residential care facilities for the elderly, as defined in Section 1569.2 of the Health and Safety Code.

(k) Respite care facilities.

(l) Foster homes.

(m) Vocational rehabilitation facilities and work activity centers.

(n) Designated area agencies on aging.

(o) Regional centers for persons with developmental disabilities.

(p) State Department of Social Services and State Department of Health Services licensing divisions.

(q) County welfare departments.

(r) Offices of patients’ rights advocates and clients’ rights advocates, including attorneys.

(s) The office of the long-term care ombudsman.

(t) Offices of public conservators, public guardians, and court investigators.

(u) Any protection or advocacy agency or entity that is designated by the Governor to fulfill the requirements and assurances of the following:

1. The federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, contained in Chapter 144 (commencing with Section 15001) of Title 42 of the United States Code, for protection and advocacy of the rights of persons with developmental disabilities.

2. The Protection and Advocacy for the Mentally Ill Individuals Act of 1986, as amended, contained in Chapter 114 (commencing with Section 10801) of Title 42 of the United States Code, for the protection and advocacy of the rights of persons with mental illness.

(v) Humane societies and animal control agencies.

(w) Fire departments.

(x) Offices of environmental health and building code enforcement.

(y) Any other protective, public, sectarian, mental health, or private assistance or advocacy agency or person providing health services or social services to elders or dependent adults.

SEC. 3. Section 15610.19 is added to the Welfare and Institutions Code, to read:

15610.19. "Clergy member" means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, synagogue, temple, mosque, or recognized religious denomination or organization. "Clergy member" does not include unpaid volunteers whose principal occupation or vocation does not involve active or ordained ministry in a church, synagogue, temple, mosque, or recognized religious denomination or organization, and who periodically visit elder or dependent adults on behalf of that church, synagogue, temple, mosque, or recognized religious denomination or organization.
SEC. 4. Section 15610.23 of the Welfare and Institutions Code is amended to read:

15610.23. (a) “Dependent adult” means any person between the ages of 18 and 64 years who resides in this state and who has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities, or whose physical or mental abilities have diminished because of age.

(b) “Dependent adult” includes any person between the ages of 18 and 64 years who is admitted as an inpatient to a 24-hour health facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

SEC. 5. Section 15610.37 of the Welfare and Institutions Code is amended to read:

15610.37. “Health practitioner” means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, licensed clinical social worker or associate clinical social worker, marriage, family, and child counselor, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any emergency medical technician I or II, paramedic, or person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code, a marriage, family, and child counselor trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, or an unlicensed marriage, family, and child counselor intern registered under Section 4980.44 of the Business and Professions Code, state or county public health or social service employee who treats an elder or a dependent adult for any condition, or a coroner.

SEC. 6. Section 15610.39 is added to the Welfare and Institutions Code, to read:

15610.39. “Imminent danger” means a substantial probability that an elder or dependent adult is in imminent or immediate risk of death or serious physical harm, through either his or her own action or inaction, or as a result of the action or inaction of another person.

SEC. 7. Section 15610.50 of the Welfare and Institutions Code is amended to read:

15610.50. “Long-term care ombudsman” means the State Long-Term Care Ombudsman, local ombudsman coordinators, and other persons currently certified as ombudsmen by the Department of Aging as described in Chapter 11 (commencing with Section 9700) of Division 8.5.
SEC. 7.5. Section 15610.55 of the Welfare and Institutions Code is amended to read:

15610.55. (a) "Multidisciplinary personnel team" means any team of two or more persons who are trained in the prevention, identification, and treatment of abuse of elderly or dependent adults and who are qualified to provide a broad range of services related to abuse of elderly or dependent adults.

(b) A multidisciplinary personnel team may include, but is not limited to, all of the following:

(1) Psychiatrists, psychologists, or other trained counseling personnel.

(2) Police officers or other law enforcement agents.

(3) Medical personnel with sufficient training to provide health services.

(4) Social workers with experience or training in prevention of abuse of elderly or dependent adults.

(5) Public guardians.

(6) The local long-term care ombudsman.

SEC. 8. Section 15610.57 of the Welfare and Institutions Code is amended to read:

15610.57. (a) "Neglect" means either of the following:

(1) The negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care that a reasonable person in a like position would exercise.

(2) The negligent failure of an elder or dependent adult to exercise that degree of self care that a reasonable person in a like position would exercise.

(b) Neglect includes, but is not limited to, all of the following:

(1) Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter.

(2) Failure to provide medical care for physical and mental health needs. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.

(3) Failure to prevent malnutrition or dehydration.

(4) Failure to prevent malnutrition or dehydration.

(5) Failure of an elder or dependent adult to satisfy the needs specified in paragraphs (1) to (4), inclusive, for himself or herself as a result of poor cognitive functioning, mental limitation, substance abuse, or chronic poor health.

SEC. 9. Section 15630 of the Welfare and Institutions Code is amended to read:

15630. (a) Any person who has assumed full or intermittent responsibility for care or custody of an elder or dependent adult, whether
or not that person receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency, is a mandated reporter.

(b) (1) Any mandated reporter who, in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that he or she has experienced behavior, including an act or omission, constituting physical abuse, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, shall report the known or suspected instance of abuse by telephone immediately or as soon as practicably possible, and by written report sent within two working days, as follows:

(A) If the abuse has occurred in a long-term care facility, except a state mental health hospital or a state developmental center, the report shall be made to the local ombudsman or the local law enforcement agency.

Except in an emergency, the local ombudsman and the local law enforcement agency shall, as soon as practicable, do all of the following:

(i) Report to the State Department of Health Services any case of known or suspected abuse occurring in a long-term health care facility, as defined in subdivision (a) of Section 1418 of the Health and Safety Code.

(ii) Report to the State Department of Social Services any case of known or suspected abuse occurring in a residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or in an adult day care facility, as defined in paragraph (2) of subdivision (a) of Section 1502.

(iii) Report to the State Department of Health Services and the California Department of Aging any case of known or suspected abuse occurring in an adult day health care center, as defined in subdivision (b) of Section 1570.7 of the Health and Safety Code.

(iv) Report to the Bureau of Medi-Cal Fraud and Elder Abuse any case of known or suspected criminal activity.

(B) If the suspected or alleged abuse occurred in a state mental hospital or a state developmental center, the report shall be made to designated investigators of the State Department of Mental Health or the State Department of Developmental Services, or to the local law enforcement agency.

Except in an emergency, the local law enforcement agency shall, as soon as practicable, report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse.
(C) If the abuse has occurred any place other than one described in subparagraph (A), the report shall be made to the adult protective services agency or the local law enforcement agency.

(2) (A) A mandated reporter who is a clergy member who acquires knowledge or reasonable suspicion of elder or dependent adult abuse during a penitential communication is not subject to paragraph (1). For purposes of this subdivision, “penitential communication” means a communication that is intended to be in confidence, including, but not limited to, a sacramental confession made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization is authorized or accustomed to hear those communications and under the discipline tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

(B) Nothing in this subdivision shall be construed to modify or limit a clergy member’s duty to report known or suspected elder and dependent adult abuse when he or she is acting in the capacity of a care custodian, health practitioner, or employee of an adult protective agency.

(C) Notwithstanding any other provision in this section, a clergy member who is not regularly employed on either a full-time or part-time basis in a long-term care facility or does not have care or custody of an elder or dependent adult shall not be responsible for reporting abuse or neglect that is not reasonably observable or discernible to a reasonably prudent person having no specialized training or experience in elder or dependent care.

(3) (A) A mandated reporter who is a physician and surgeon, a registered nurse, or a psychotherapist, as defined in Section 1010 of the Evidence Code, shall not be required to report, pursuant to paragraph (1), an incident where all of the following conditions exist:

(i) The mandated reporter has been told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, abandonment, abduction, isolation, financial abuse, or neglect.

(ii) The mandated reporter is not aware of any independent evidence that corroborates the statement that the abuse has occurred.

(iii) The elder or dependent adult has been diagnosed with a mental illness or dementia, or is the subject of a court-ordered conservatorship because of a mental illness or dementia.

(iv) In the exercise of clinical judgment, the physician and surgeon, the registered nurse, or the psychotherapist, as defined in Section 1010 of the Evidence Code, reasonably believes that the abuse did not occur.

(B) This paragraph shall not be construed to impose upon mandated reporters a duty to investigate a known or suspected incident of abuse and shall not be construed to lessen or restrict any existing duty of mandated reporters.
(4) (A) In a long-term care facility, a mandated reporter shall not be required to report as a suspected incident of abuse, as defined in Section 15610.07, an incident where all of the following conditions exist:

(i) The mandated reporter is aware that there is a proper plan of care.

(ii) The mandated reporter is aware that the plan of care was properly provided or executed.

(iii) A physical, mental, or medical injury occurred as a result of care provided pursuant to clause (i) or (ii).

(iv) The mandated reporter reasonably believes that the injury was not the result of abuse.

(B) This paragraph shall not be construed to require a mandated reporter to seek, nor to preclude a mandated reporter from seeking, information regarding a known or suspected incident of abuse prior to reporting. This paragraph shall apply only to those categories of mandated reporters that the State Department of Health Services determines, upon approval by the Bureau of Medi-Cal Fraud and Elder Abuse and the state long-term care ombudsman, have access to plans of care and have the training and experience necessary to determine whether the conditions specified in this section have been met.

(c) (1) Any mandated reporter who has knowledge, or reasonably suspects, that types of elder or dependent adult abuse for which reports are not mandated have been inflicted upon an elder or dependent adult, or that his or her emotional well-being is endangered in any other way, may report the known or suspected instance of abuse.

(2) If the suspected or alleged abuse occurred in a long-term care facility other than a state mental health hospital or a state developmental center, the report may be made to the long-term care ombudsman program. Except in an emergency, the local ombudsman shall report any case of known or suspected abuse to the State Department of Health Services and any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.

(3) If the suspected or alleged abuse occurred in a state mental health hospital or a state developmental center, the report may be made to the designated investigator of the State Department of Mental Health or the State Department of Developmental Services or to a local law enforcement agency or to the local ombudsman. Except in an emergency, the local ombudsman and the local law enforcement agency shall report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.

(4) If the suspected or alleged abuse occurred in a place other than a place described in paragraph (2) or (3), the report may be made to the county adult protective services agency.
(5) If the conduct involves criminal activity not covered in subdivision (b), it may be immediately reported to the appropriate law enforcement agency.

(d) When two or more mandated reporters are present and jointly have knowledge or reasonably suspect that types of abuse of an elder or a dependent adult for which a report is or is not mandated have occurred, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement, and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(e) A telephone report of a known or suspected instance of elder or dependent adult abuse shall include, if known, the name of the person making the report, the name and age of the elder or dependent adult, the present location of the elder or dependent adult, the names and addresses of family members or any other person responsible for the elder or dependent adult’s care, the nature and extent of the elder or dependent adult’s condition, the date of the incident, and any other information, including information that led that person to suspect elder or dependent adult abuse, as requested by the agency receiving the report.

(f) The reporting duties under this section are individual, and no supervisor or administrator shall impede or inhibit the reporting duties, and no person making the report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting, ensure confidentiality, and apprise supervisors and administrators of reports may be established, provided they are not inconsistent with this chapter.

(g) (1) Whenever this section requires a county adult protective services agency to report to a law enforcement agency, the law enforcement agency shall, immediately upon request, provide a copy of its investigative report concerning the reported matter to that county adult protective services agency.

(2) Whenever this section requires a law enforcement agency to report to a county adult protective services agency, the county adult protective services agency shall, immediately upon request, provide to that law enforcement agency a copy of its investigative report concerning the reported matter.

(3) The requirement to disclose investigative reports pursuant to this subdivision shall not include the disclosure of social services records or case files that are confidential, nor shall this subdivision be construed to allow disclosure of any reports or records if the disclosure would be prohibited by any other provision of state or federal law.

(h) Failure to report physical abuse, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in
violation of this section, is a misdemeanor, punishable by not more than six months in the county jail, by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment. Any mandated reporter who willfully fails to report physical abuse, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, where that abuse results in death or great bodily injury, shall be punished by not more than one year in a county jail, by a fine of not more than five thousand dollars ($5,000), or by both that fine and imprisonment.

SEC. 10. Section 15633.5 of the Welfare and Institutions Code is amended to read:

15633.5. (a) Information relevant to the incident of elder or dependent adult abuse may be given to an investigator from an adult protective services agency, a local law enforcement agency, a district attorney’s office, the Bureau of Medi-Cal Fraud and Elder Abuse, or investigators of the Department of Consumer Affairs, Division of Investigation, who are investigating the known or suspected case of elder or dependent adult abuse.

(b) The identity of all persons who report under this chapter shall be confidential and disclosed only among adult protective services agencies, long-term care ombudsman programs, licensing agencies, local law enforcement agencies, district attorneys’ offices, the bureau, and the Division of Investigation to counsel representing an adult protective services agency, long-term care ombudsman program, licensing agency, or a local law enforcement agency, by the bureau to the district attorney in a criminal prosecution, when persons reporting waive confidentiality, or by court order.

(c) Notwithstanding subdivisions (a) and (b), any person reporting pursuant to Section 15631 shall not be required to include his or her name in the report.

SEC. 11. Section 15634 of the Welfare and Institutions Code is amended to read:

15634. (a) No care custodian, clergy member, health practitioner, or employee of an adult protective service agency or a local law enforcement agency who reports a known or suspected instance of elder or dependent adult abuse shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of elder or dependent adult abuse shall not incur civil or criminal liability as a result of any report authorized by this article, unless it can be proven that a false report was made and the person knew that the report was false. No person required to make a report pursuant to this article, or any person taking photographs at his or her discretion, shall incur any civil or criminal liability for taking photographs of a suspected victim of elder or dependent adult abuse or
causing photographs to be taken of such a suspected victim or for disseminating the photographs with the reports required by this article. However, this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.

(b) No care custodian, clergy member, health practitioner, or employee of an adult protective services agency or a local law enforcement agency who, pursuant to a request from an adult protective services agency or a local law enforcement agency investigating a report of known or suspected elder or dependent adult abuse, provides the requesting agency with access to the victim of a known or suspected instance of elder or dependent adult abuse, shall incur civil or criminal liability as a result of providing that access.

(c) The Legislature finds that, even though it has provided immunity from liability to persons required to report elder or dependent adult abuse, immunity does not eliminate the possibility that actions may be brought against those persons based upon required reports of abuse. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions. Therefore, a care custodian, clergy member, health practitioner, or an employee of an adult protective services agency or a local law enforcement agency may present to the State Board of Control a claim for reasonable attorneys’ fees incurred in any action against that person on the basis of making a report required or authorized by this article if the court has dismissed the action upon a demurrer or motion for summary judgment made by that person, or if he or she prevails in the action. The State Board of Control shall allow that claim if the requirements of this subdivision are met, and the claim shall be paid from an appropriation to be made for that purpose. Attorneys’ fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars ($50,000). This subdivision shall not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

SEC. 12. Section 15653.5 of the Welfare and Institutions Code, as added by Chapter 946 of the Statutes of 1998, is repealed.

SEC. 12.3. Section 15653.5 of the Welfare and Institutions Code, as added by Chapter 980 of the Statutes of 1998, is amended to read:

15653.5. Training for determining when to refer for possible criminal prosecution a report of a known or suspected instance of abuse that occurred in a long-term care facility shall be included in the training provided by the Bureau of Medi-Cal Fraud and Elder Abuse pursuant to subdivision (h) of Section 12528 of the Government Code.
SEC. 12.5. Section 15655.5 is added to the Welfare and Institutions Code, to read:

15655.5. A county adult protective service agency shall provide the organizations listed in paragraphs (v), (w), and (x) of Section 15610.17 with instructional materials regarding elder and dependent adult abuse and neglect and their obligation to report under this chapter. At a minimum, the instructional materials shall include the following:

(a) An explanation of elder and dependent adult abuse and neglect, as defined in this chapter.
(b) Information on how to recognize potential elder and dependent adult abuse and neglect.
(c) Information on how the county adult protective service agency investigates reports of known or suspected abuse and neglect.
(d) Instructions on how to report known or suspected incidents of abuse and neglect, including the appropriate telephone numbers to call and what types of information would assist the county adult protective service agency with its investigation of the report.

SEC. 12.7. Section 15659 of the Welfare and Institutions Code is amended to read:

15659. (a) Any person who enters into employment on or after January 1, 1995, as a care custodian, clergy member, health practitioner, or with an adult protective services agency or a local law enforcement agency, prior to commencing his or her employment and as a prerequisite to that employment, shall sign a statement on a form that shall be provided by the prospective employer, to the effect that he or she has knowledge of Section 15630 and will comply with its provisions. The employer shall provide a copy of Section 15630 to the employee. The statement shall inform the employee that he or she is a mandated reporter and inform the employee of his or her reporting obligations under Section 15630. The signed statement shall be retained by the employer.
(b) Agencies or facilities that employ persons who were employed prior to January 1, 1995, and who are required to make reports pursuant to Section 15630, shall inform those persons of their responsibility to make reports by delivering to them a copy of the statement specified in subdivision (a).
(c) The cost of printing, distribution, and filing of these statements shall be borne by the employer.
(d) On and after January 1, 1995, when a person is issued a state license or certificate to engage in a profession or occupation the members of which are required to make a report pursuant to Section 15630, the state agency issuing the license or certificate shall send to the person a statement substantially similar to the one contained in subdivision (a) at the same time that it transmits to the person the document indicating licensure or certification.
(e) As an alternative to the procedure required by subdivision (d), a state agency may cause the required statement to be printed on all application forms for a license or certificate printed on or after January 1, 1995.

(f) The retention of statements required by subdivision (a), and the delivery of statements required by subdivision (b), shall be the full extent of the employer’s duty pursuant to this section. The failure of any employee or other person associated with the employer to report abuse of elders or dependent adults pursuant to Section 15630 or otherwise meet the requirements of this chapter shall be the sole responsibility of that person. The employer or facility shall incur no civil or other liability for the failure of these persons to comply with the requirements of this chapter.

SEC. 13. Section 15701 of the Welfare and Institutions Code is amended to read:

15701. The definitions contained in this article and Chapter 11 (commencing with Section 15600) shall govern the construction of this chapter.

SEC. 14. Section 15701.1 of the Welfare and Institutions Code is repealed.

SEC. 15. Section 15701.15 of the Welfare and Institutions Code is repealed.

SEC. 16. Section 15701.2 of the Welfare and Institutions Code is repealed.

SEC. 17. Section 15701.35 of the Welfare and Institutions Code is repealed.

SEC. 18. Section 15750 of the Welfare and Institutions Code is amended and renumbered to read:

15751. Each county welfare department shall establish and support a system of protective services to elderly and dependent adults who may be subjected to neglect, abuse, or exploitation, or who are unable to protect their own interest.

This system shall be known as the county adult protective services system.

SEC. 19. Section 15750 is added to the Welfare and Institutions Code, to read:

15750. The definitions contained in Chapter 11 (commencing with Section 15600) shall govern the construction of this chapter.

SEC. 20. Section 15751 of the Welfare and Institutions Code is amended and renumbered to read:

15752. Each county shall establish and maintain a specialized entity within the county welfare department which shall have lead responsibility for the operation of the adult protective services program.
SEC. 21. Section 15752 of the Welfare and Institutions Code is repealed.
SEC. 22. Section 15753 of the Welfare and Institutions Code is repealed.
SEC. 23. Section 15753.5 of the Welfare and Institutions Code is repealed.
SEC. 24. The heading of Chapter 13.5 (commencing with Section 15760) of Part 3 of Division 9 of the Welfare and Institutions Code is repealed.
SEC. 25. Section 15760 of the Welfare and Institutions Code is amended to read:

15760. Adult protective services shall include investigations, needs assessments, remedial and preventive social work activities; the necessary tangible resources such as food, transportation, emergency shelter, and in-home protective care; the use of multidisciplinary teams; and a system in which reporting of abuse can occur on a 24-hour basis.

SEC. 26. Section 15761 of the Welfare and Institutions Code is repealed.
SEC. 27. Section 15763 of the Welfare and Institutions Code is amended to read:

15763. (a) Each county shall establish an emergency response adult protective services program that shall provide in-person response, 24 hours per day, seven days per week, to reports of abuse of an elder or a dependent adult, for the purpose of providing immediate intake or intervention, or both, with regard to new reports involving immediate life threats or imminent danger, and to crises in existing cases. The program shall include policies and procedures to accomplish all of the following:

(1) Provision of case management services that include investigation of the protection issues; assessment of the person's concerns, needs, strengths, problems, and limitation; stabilization and linking the person with community services; and development of a service plan to alleviate identified problems utilizing counseling, monitoring, followup, and reassessment.

(2) Provisions for emergency shelter or in-home protection to guarantee a safe place for the elder or dependent adult to stay until the dangers at home can be resolved.

(3) Establishment of multidisciplinary teams to develop interagency treatment strategies, ensure maximum coordination with existing community resources, ensure maximum access on behalf of elders and dependent adults, and avoid duplication of efforts.

(b) (1) A county shall respond immediately to any new report of crises in existing cases of, imminent threat to life to, or imminent danger to, any elder or dependent adult residing in other than a long-term care
facility, as defined in Section 9701, or a residential facility, as defined in Section 1502 of the Health and Safety Code. For reports involving persons residing in a long-term care facility or a residential care facility, the county shall report to the local long-term care ombudsman program. Adult protective services staff shall consult, coordinate, and support efforts of the ombudsman program to protect vulnerable residents. Except as specified in paragraph (2), the county shall respond to all other reports of danger to an elder or dependent adult in other than a long-term care facility or residential care facility within 10 calendar days or as soon as practicably possible.

(2) An immediate or 10-day in-person response is not required when the county, based upon an evaluation of risk, determines and documents that the elder or dependent adult is not in immediate or imminent danger and that an immediate or 10-day in-person response is not necessary to protect the health or safety of the elder or dependent adult.

(3) Until criteria and standards are developed to implement paragraph (2), the county’s evaluation pursuant to paragraph (2) shall include and document all of the following:
   (A) The factors that led to the county’s decision that an in-person response was not required.
   (B) The level of risk to the elder or dependent adult, including collateral contacts.
   (C) A review of previous referrals and other relevant information as indicated for the purpose of resolving or ameliorating the protection issues identified in the service plan.
   (D) The need for intervention at the time.
   (E) The need for protective services.

(4) On or before April 1, 2001, and annually thereafter, the State Department of Social Services shall submit a report to the Legislature regarding the number of cases, by county, out of the total number of cases reported to the counties, that were determined not to require an immediate or 10-day in-person response pursuant to paragraph (2), and the disposition of those cases.

(c) A county shall provide case management services to elders and dependent adults who are determined to be in need of adult protective services for the purpose of bringing about changes in the lives of victims and to provide a safety net to enable victims to protect themselves in the future. Case management services shall include the following, to the extent services are appropriate for the individual:

   (1) Investigation of the protection issues, including, but not limited to, social, medical, environmental, physical, emotional, and developmental.
(2) Assessment of the concerns and needs of the person on whom the report has been made and the concerns and needs of other members of the family and household.

(3) Analysis of problems and strengths.

(4) Establishment of a service plan for each person on whom the report has been made to alleviate the identified problems.

(5) Client input and acceptance of proposed service plans.

(6) Counseling for each client on whom a report has been made and significant others to alleviate the identified problems and to implement the service plan.

(7) Stabilizing and linking each client on whom a report has been made with community services.

(8) Monitoring and followup.

(9) Reassessments, as appropriate.

(d) To the extent resources are available, each county shall provide emergency shelter in the form of a safe haven or in-home protection for victims. Shelter and care appropriate to the needs of the victim shall be provided for frail and disabled victims who are in need of assistance with activities of daily living.

(e) Each county shall designate an adult protective services agency to establish and maintain multidisciplinary teams including, but not limited to, adult protective services, law enforcement, home health care agencies, hospitals, adult protective services staff, the public guardian, private community service agencies, public health agencies, and mental health agencies, for the purpose of providing interagency treatment strategies.

(f) Each county shall provide tangible support services, to the extent resources are available, which may include, but not be limited to, emergency food, clothing, repair or replacement of essential appliances, plumbing and electrical repair, blankets, linens, other household goods, advocacy with utility companies, and emergency response units.

SEC. 28. Section 15765 of the Welfare and Institutions Code is amended to read:

15765. This chapter shall become operative on May 1, 1999. Commencing with the 1999–2000 fiscal year, Sections 15760 to 15764, inclusive, shall be implemented only to the extent funds are provided in the annual Budget Act.

SEC. 29. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or
changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

CHAPTER  55

An act to add Section 6523.4 to the Government Code, relating to health facilities.

[Approved by Governor June 17, 2002. Filed with Secretary of State June 17, 2002.]

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

SECTION 1.  It is the intent of the Legislature in enacting this act to do all of the following:
(a) Meet the challenges of the evolving health care market and carry out the essential governmental function of making health care services available to Medi-Cal and medically indigent citizens served by health care districts, counties, and other agencies.
(b) Authorize nonprofit hospitals in the County of Fresno to do all of the following:
   (1) Engage in joint planning for health care services.
   (2) Allocate health care services among the different facilities operated by the hospitals.
   (3) Engage in joint purchasing, joint development, and ownership of health care delivery and financing programs.
   (4) Consolidate or eliminate duplicative administrative, clinical, and medical services.
   (5) Engage in joint contracting and negotiations with health plans.
   (6) Take cooperative actions in order to provide for the health care needs of residents of the communities they serve.

SEC. 2.  Section 6523.4 is added to the Government Code, to read:
                        6523.4.  (a) Notwithstanding any other provision of this chapter, the Selma Community Hospital, a private, nonprofit hospital in Fresno
County, may enter into a joint powers agreement with one or more of the following public agencies:

(1) The Alta Hospital District.
(2) The Kingsburg Hospital District.
(3) The Sierra-Kings Hospital District.

(b) The joint powers authority created pursuant to subdivision (a) may perform only the following functions:

(1) Engage in joint planning for health care services.
(2) Allocate health care services among the different facilities operated by the hospitals.
(3) Engage in joint purchasing, joint development, and joint ownership of health care delivery and financing programs.
(4) Consolidate or eliminate duplicative administrative, clinical, and medical services.
(5) Engage in joint contracting and negotiations with health plans.
(6) Take cooperative actions in order to provide for the health care needs of the residents of the communities they serve.

(c) Nonprofit hospitals and public agencies participating in a joint powers agreement entered into pursuant to subdivision (a) shall not reduce or eliminate any emergency services, as a result of that agreement, following the creation of the joint powers authority without a public hearing by the authority. The joint powers authority shall provide public notice of the hearing to the communities served by the authority not less than 14 days prior to the hearing and the notice shall contain a description of the proposed reductions or changes.

(d) Nothing in this section shall be construed to grant any power to any nonprofit hospital that participates in an agreement authorized under this section to levy any tax or assessment. Nothing in this section shall permit any entity, other than a nonprofit hospital corporation or a public agency, to participate as a party to an agreement authorized under this section.

(e) Nothing in this section shall authorize activities that corporations and other artificial legal entities are prohibited from conducting by Section 2400 of the Business and Professions Code.

SEC. 3. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances facing the Selma Community Hospital, a private, nonprofit hospital in Fresno County, and three of the health care districts that serve residents in portions of Fresno County.
An act to amend Sections 20300, 20405.1, and 20687 of, and to add Sections 19816.21, 21020.5, and 21363.8 to, the Government Code, and to amend Section 830.1 of the Penal Code, relating to state employees’ retirement, and making an appropriation therefor.

[Approved by Governor June 19, 2002. Filed with Secretary of State June 19, 2002.]

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

SECTION 1. Section 19816.21 is added to the Government Code, to read:

19816.21. (a) Notwithstanding Sections 18717 and 19816.20, effective July 1, 2004, the following officers and employees, who are in the following classifications or positions on or after July 1, 2004, shall be state safety members of the Public Employees’ Retirement System:

(1) State employees in State Bargaining Unit 7 (Protective Services and Public Services) whose job classifications are subject to state miscellaneous membership in the Public Employees’ Retirement System, unless otherwise excluded by a memorandum of understanding.

(2) State employees in managerial, supervisory, or confidential positions that are related to the job classifications described in paragraph (1) and that are subject to state miscellaneous membership in the Public Employees’ Retirement System, provided that the Department of Personnel Administration has approved their inclusion.

(3) Officers and employees of the executive branch of state government who are not members of the civil service and who are in positions that are related to the job classifications described in paragraph (1) and that are subject to state miscellaneous membership in the Public Employees’ Retirement System, provided that the Department of Personnel Administration has approved their inclusion.

(b) The department shall notify the Public Employees’ Retirement System of the classes or positions that become subject to state safety membership under this section, as prescribed in Section 20405.1.

SEC. 2. Section 20300 of the Government Code is amended to read:

20300. The following persons are excluded from membership in this system:

(a) Inmates of state or public agency institutions who are allowed compensation for the service they are able to perform.

(b) Independent contractors who are not employees.

(c) Persons employed as student assistants in the state colleges and persons employed as student aides in the special schools of the State Department of Education and in the public schools of the state.
(d) Persons employed as teacher-assistants pursuant to Section 44926 of the Education Code.

(e) Participants, other than staff officers and employees, in the California Conservation Corps.

(f) Persons employed as participants in a program of, and whose wages are paid in whole or in part by federal funds in accordance with, Section 1501 et seq. of Title 29 of the United States Code. This subdivision does not apply with respect to persons employed in job classes that provide eligibility for patrol or safety membership or to the career staff employees of an employer.

(g) All persons who are members in any teachers’ retirement system, as to the service in which they are members of any teachers’ retirement system.

(h) Except as otherwise provided in this part, persons rendering professional legal services to a city, other than the person holding the office of city attorney, the office of assistant city attorney, or an established position of deputy city attorney.

(i) A person serving the university as a teacher in university extension, whose compensation for that service is established on the basis of class enrollment, either actual or estimated, with respect to that service.

(j) A person serving a California State University as a teacher in extension service, whose compensation for that service is established on the basis of class enrollment, either actual or estimated, with respect to that service.

(k) A teacher or academic employee of the university or any California State University who is otherwise fully employed and who serves as a teacher or in an academic capacity in any summer session or intersession, for which he or she receives compensation specifically attributable to that service in summer session or intersession, with respect to that service.

(l) A person who is employed under the California Senate Fellows, the Assembly Fellowship, the Judicial Administration Fellowship, or the Executive Fellowship programs.

SEC. 3. Section 20405.1 of the Government Code is amended to read:

20405.1. Notwithstanding Section 20405, this section shall apply to state employees in state bargaining units that have agreed to these provisions in a memorandum of understanding between the state employer and the recognized employee organization, as defined in Section 3513, state employees who are excluded from the definition of “state employee” by subdivision (c) of Section 3513, and officers or employees of the executive branch of state government who are not members of the civil service.
(a) On and after the effective date of this section, state safety members shall also include officers and employees whose classifications or positions are found to meet the state safety criteria prescribed in Section 19816.20, provided the Department of Personnel Administration agrees to their inclusion, and officers and employees whose classifications or positions have been designated as subject to state safety membership pursuant to Section 19816.21. For employees covered by a collective bargaining agreement, the effective date of safety membership shall be the date on which the department and the employees’ exclusive representative reach agreement by memorandum of understanding pursuant to Section 3517.5 or any later date specified in the memorandum of understanding. For employees not covered by a collective bargaining agreement, the Department of Personnel Administration shall determine the effective date of safety membership.

(b) The department shall notify the board as new classes or positions become eligible for state safety membership, as specified in subdivision (a), and specify how service prior to the effective date shall be credited.

(c) The department shall prepare and submit to the Legislature an annual report that contains the classes or positions that are eligible for state safety membership under this section.

(d) Any person designated as a state safety member pursuant to this section may elect, within 90 days of notification by the board, to remain subject to the miscellaneous or industrial service retirement benefit and contribution rate by filing an irrevocable election with the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21076, 21353, or 21354.1, as applicable, only for service also included in the federal system.

SEC. 4. Section 20687 of the Government Code is amended to read:

20687. (a) The normal rate of contribution for state peace officer/firefighter members subject to Section 21363, 21363.1, 21363.3, 21363.4, or 21363.8 shall be 8 percent of the compensation in excess of two hundred thirty-eight dollars ($238) per month paid to those members.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(c) The Director of the Department of Personnel Administration may establish the normal rate of contribution for a state employee who is excepted from the definition of “state employee” in subdivision (c) of
Section 3513, and an officer or employee of the executive branch of state
government who is not a member of the civil service. The normal rate
of contribution shall be the same for all members identified in this subdivi-
sion. The contribution rate shall be effective the beginning of the
pay period indicated by the Director of the Department of Personnel
Administration but shall be no earlier than the beginning of the pay
period following the date the board receives notification.

SEC. 5. Section 21020.5 is added to the Government Code, to read:

21020.5. (a) “Public service” also means time, on or after October
14, 1991, during which a person was employed under the California
Senate Fellows, the Assembly Fellowship, or the Executive Fellowship
programs, and time, on or after January 1, 2003, during which a person
was employed under the Judicial Administration Fellowship program.

(b) A member may elect at any time prior to retirement to receive
service credit for that public service by making the contributions as
specified in Sections 21050 and 21052.

(c) This section shall not apply to any contracting agency nor to the
employees of any contracting agency until the agency elects to be subject
to this section by contract or by amendment to its contract made in the
manner prescribed for approval of contracts.

SEC. 6. Section 21363.8 is added to the Government Code, to read:

21363.8. (a) Upon attaining the age of 50 years or more, the
combined current and prior service pension for a state peace
officer/firefighter member described in subdivision (c) who retires or
dies on or after January 1, 2004, is a pension derived from the
contributions of the employer sufficient when added to the service
retirement annuity that is derived from the accumulated normal
contributions of the member at the date of his or her retirement to equal
3 percent of his or her final compensation at retirement, multiplied by
the number of years of state peace officer/firefighter service, as defined
in subdivision (d), subject to this section with which he or she is credited
at retirement.

(b) For state peace officer/firefighter members, with respect to
service for all state employers under this section, the current service
pension and the combined current and prior service pension under this
section may not exceed an amount that, when added to the service
retirement annuity related to that service, equals 90 percent of final
compensation. If the pension relates to service to more than one
employer and would otherwise exceed that maximum, the pension
payable with respect to each employer shall be reduced in the same
proportion as the allowance based on service to that employer bears to
the total allowance computed as though there were no limit, so that the
total of the pensions shall equal the maximum.
(c) (1) This section shall apply to state peace officer/firefighter members under this part who, on or after January 1, 2004, are employed by the state and are members of State Bargaining Unit 7.

(2) This section may also apply to state peace officer/firefighter members in managerial, supervisory, or confidential positions that are related to the members described in paragraph (1) and to officers or employees of the executive branch of state government who are not members of the civil service and who are in positions that are related to the members described in paragraph (1), if the Department of Personnel Administration has approved their inclusion in writing to the board.

(d) (1) For purposes of this section, “state peace officer/firefighter service” means service performed by a state peace officer/firefighter member while a member of State Bargaining Unit 7.

(2) That service may include state peace officer/firefighter service in managerial, supervisory, or confidential positions that are related to the members described in paragraph (1) or as officers or employees of the executive branch of state government who are not members of the civil service and who are in positions that are related to the members described in paragraph (1), provided the Department of Personnel Administration has approved their inclusion in writing to the board.

(e) This section shall supersede Section 21363 or 21363.1, whichever is applicable, with respect to state peace officer/firefighter members subject to this section and state peace officer/firefighter service as defined herein.

(f) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier ages of service retirement made possible by the benefits under this section.

SEC. 7. Section 830.1 of the Penal Code is amended to read:

830.1. (a) Any sheriff, undersheriff, or deputy sheriff, employed in that capacity, of a county, any chief of police of a city or chief, director, or chief executive officer of a consolidated municipal public safety agency that performs police functions, any police officer, employed in that capacity and appointed by the chief of police or chief, director, or chief executive of a public safety agency, of a city, any chief of police, or police officer of a district (including police officers of the San Diego Unified Port District Harbor Police) authorized by statute to maintain a police department, any marshal or deputy marshal of a municipal court, any port warden or special officer of the Harbor Department of the City of Los Angeles, or any inspector or investigator employed in that capacity in the office of a district attorney, is a peace officer. The
authority of these peace officers extends to any place in the state, as follows:

(1) As to any public offense committed or which there is probable cause to believe has been committed within the political subdivision that employs the peace officer.

(2) Where the peace officer has the prior consent of the chief of police or chief, director, or chief executive officer of a consolidated municipal public safety agency, or person authorized by him or her to give consent, if the place is within a city or of the sheriff, or person authorized by him or her to give consent, if the place is within a county.

(3) As to any public offense committed or which there is probable cause to believe has been committed in the peace officer’s presence, and with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of the offense.

(b) The Attorney General and special agents and investigators of the Department of Justice are peace officers, and those assistant chiefs, deputy chiefs, chiefs, deputy directors, and division directors designated as peace officers by the Attorney General are peace officers. The authority of these peace officers extends to any place in the state where a public offense has been committed or where there is probable cause to believe one has been committed.

(c) Any deputy sheriff of a county of the first class, and any deputy sheriff of the Counties of Riverside and San Diego, who is employed to perform duties exclusively or initially relating to custodial assignments with responsibilities for maintaining the operations of county custodial facilities, including the custody, care, supervision, security, movement, and transportation of inmates, is a peace officer whose authority extends to any place in the state only while engaged in the performance of the duties of his or her respective employment and for the purpose of carrying out the primary function of employment relating to his or her custodial assignments, or when performing other law enforcement duties directed by his or her employing agency during a local state of emergency.

CHAPTER 57

An act to add Sections 100.9 and 721.5 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor June 20, 2002. Filed with Secretary of State June 21, 2002.]
The people of the State of California do enact as follows:

SECTION 1. Section 100.9 is added to the Revenue and Taxation Code, to read:

100.9. (a) Notwithstanding any other provision of law and except as provided in subdivision (b), for the 2003–04 fiscal year and each fiscal year thereafter, all of the following apply:

(1) The property tax assessed value of an electric generation facility that is assessed by the State Board of Equalization shall be allocated entirely to the county in which the facility is located, and shall be allocated to that tax rate area in the county in which the property is located.

(2) The tax rate applied to the assessed value allocated pursuant to paragraph (1) shall be the rate calculated pursuant to Section 93.

(3) The revenues derived from the application of the tax rate to the assessed value allocated to a tax rate area pursuant to paragraph (1) shall be allocated among the jurisdictions in that tax rate area, in those same percentage shares that property tax revenues derived from locally assessed property are allocated to those jurisdictions in that tax rate area, subject to any allocation and payment of funds as provided in subdivision (b) of Section 33670 of the Health and Safety Code, and subject to any modifications or adjustments pursuant to Sections 99 and 99.2.

(b) Subdivision (a) does not apply to the assessed value or the revenues derived from that assessed value from either of the following:

(1) An electric generation facility that was constructed pursuant to a certificate of public convenience and necessity issued by the California Public Utilities Commission to the company that presently owns the facility.

(2) An electric generation facility that is owned by a company that is a state assessee for reasons other than its ownership of the generation facility or its ownership of pipelines, flumes, canals, ditches, or aqueducts lying within two or more counties.

SEC. 2. Section 721.5 is added to the Revenue and Taxation Code, to read:

721.5. (a) (1) Notwithstanding Section 721 or any other provision of law to the contrary, commencing with the lien date for the 2003–04 fiscal year, the board shall annually assess every electric generation facility with a generating capacity of 50 megawatts or more that is owned or operated by an electrical corporation, as defined in subdivisions (a) and (b) of Section 218 of the Public Utilities Code.

(2) For purposes of paragraph (1), “electric generation facility” does not include a qualifying small power production facility or a qualifying cogeneration facility within the meaning of Sections 201 and 210 of Title

(b) This section shall be construed to supersede any regulation, in existence as of the effective date of this section, that is contrary to this section.

SEC. 3. This act shall not be construed to affect the manner in which property to which this act applies is assessed by the State Board of Equalization.

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

CHAPTER 58

An act to amend Section 12001.1 of the Penal Code, relating to undetectable knives.

[Approved by Governor June 20, 2002. Filed with Secretary of State June 21, 2002.]

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

SECTION 1. Section 12001.1 of the Penal Code is amended to read:

12001.1. (a) Any person in this state who commercially manufactures or causes to be commercially manufactured, or who knowingly imports into the state for commercial sale, keeps for commercial sale, or offers or exposes for commercial sale, any undetectable knife is guilty of a misdemeanor. As used in this section, an “undetectable knife” means any 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 that is commercially manufactured to be used as a weapon and is not detectable by a metal detector or magnetometer, either handheld or otherwise, that is set at standard calibration.

(b) Notwithstanding any other provision of law, commencing January 1, 2000, all knives 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 that are commercially manufactured in this state that utilize materials that are not detectable by a metal detector or magnetometer, shall be manufactured to include materials that will ensure they are detectable by a metal detector or magnetometer, either handheld or otherwise, that is set at standard calibration.

(c) This section shall not apply to the manufacture or importation of undetectable knives for sale to a law enforcement or military entity nor shall this section apply to the subsequent sale of these knives to a law enforcement or military entity.

(d) This section shall not apply to the manufacture or importation of undetectable knives for sale to federal, state, and local historical societies, museums, and institutional collections which are open to the public, provided that the undetectable knives are properly housed and secured from unauthorized handling, nor shall this section apply to the subsequent sale of the knives to these societies, museums, and collections.

CHAPTER 59

An act to add and repeal Section 37252.1 of the Education Code, relating to pupil instruction, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 20, 2002. Filed with Secretary of State June 21, 2002.]

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

SECTION 1. Section 37252.1 is added to the Education Code, to read:

37252.1. (a) (1) (A) Notwithstanding subdivision (g) of Section 37252, the State Board of Education may grant a request from the Fresno Unified School District that Section 37252 be waived to allow that district to receive and use funds made available pursuant to Section 37252 to offer to pupils enrolled at the Cooper Middle School whose performance on the English language arts and mathematics parts of the California Standards Tests is at the below basic or far below basic levels, as those terms are defined by the State Board of Education, an instructional day that is 60 minutes longer than at other middle schools in the district instead of offering at the Cooper Middle School the supplemental instructional programs required pursuant to Section 37252. If the State Board of Education grants the waiver request, the
longer instructional day shall be used to provide more instruction in
language arts and mathematics.

(B) The additional 60 minutes of instruction shall supplement and not
supplant regularly scheduled courses in reading and mathematics.

(C) The Fresno Unified School District shall separately account for,
and maintain separate records of, pupil attendance at the additional 60
minutes of instruction.

(2) The Fresno Unified School District may also offer pupils enrolled
at the Cooper Middle School whose performance on the English
language arts and mathematics parts of the California Standards Tests is
at a level better than the below basic or far below basic levels, as those
terms are defined by the State Board of Education, an instructional day
that is 60 minutes longer than at other middle schools in the district. The
district may not use funds made available pursuant to Section 37252 to
offer these pupils a longer instructional day.

(3) Before implementing a longer instructional day pursuant to this
section, the Fresno Unified School District shall notify the parents and
guardians of pupils enrolled in the Cooper Middle School that they may
elect to not include their child out of the instructional program offered
at the Cooper Middle School and have their child placed in a regular
program at another middle school maintained by the district.

(b) The Superintendent of Public Instruction shall conduct an
evaluation of this alternative use of supplemental instruction funds and
submit an evaluative report to the Legislature by December 31, 2004.

(c) This section shall become inoperative on July 1, 2004, and, as of
January 1, 2005, is repealed, unless a later enacted statute, that becomes
effective on or before January 1, 2005, deletes or extends the dates on
which it becomes inoperative and is repealed.

SEC. 2. The Legislature finds and declares that due to special
circumstances surrounding the Fresno Unified School District that a
general statute cannot be made applicable within the meaning of Section
16 of Article IV of the California Constitution, and the enactment of a
special statute is therefore necessary.

SEC. 3. 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 Cooper Intervention Program to continue to be funded
through the 2003–04 school year without interruption, it is necessary
that this act take effect immediately.
CHAPTER 60

An act to amend Section 19770 of the Government Code, and to amend Section 395.06 of, to add Chapter 7.5 (commencing with Section 400) to Part 1 of Division 2 of, and to repeal Sections 399 and 399.5 of, the Military and Veterans Code, relating to military service, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 20, 2002. Filed with Secretary of State June 21, 2002.]

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

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

(a) In order to provide for, strengthen, and expedite the national or state defense under the emergent conditions that are threatening the peace and security of the United States and the State of California, and to enable the United States and the State of California to more successfully fulfill the requirements of the national or state defense, provision is made to suspend enforcement of civil liabilities, in certain cases, of persons in the military service of the United States or the State of California in order to enable these persons to devote their entire energy to the defense needs of the nation or state.

(b) For these purposes, provisions are made in this act for the temporary suspension of legal proceedings and transactions that may prejudice the civil rights of persons in this service during the period specified in this act.

SEC. 2. Section 19770 of the Government Code is amended to read:

19770. (a) With the exception of Chapter 7.5 (commencing with Section 400) of Part 1 of Division 2 of the Military and Veterans Code, this part, rather than provisions of the Military and Veterans Code, governs leave for military service, rights and benefits accrued during that service, and reinstatement after that service, for executive branch employees. Both the State Personnel Board and the Department of Personnel Administration have responsibilities for carrying out certain provisions of this chapter as provided in subdivision (b).

(b) The State Personnel Board is responsible for the provisions of this chapter pertaining to civil service examinations, list eligibility, appointments, reinstatements, probationary periods, and status. The Department of Personnel Administration is responsible for the provisions of this chapter on eligibility for military leave and the effect of these leaves on the employee’s salary, vacation, sick leave, and seniority.

(c) For the purposes of this chapter:
(1) "Employee" means that term as defined by subdivision (d) of Section 19815.

(2) "Civil service employee" means an employee legally holding a position in the state civil service.

(3) "Exempt employee" means an employee who is exempt from the state civil service by Section 4 of Article VII of the California Constitution.

SEC. 3. Section 395.06 of the Military and Veterans Code is amended to read:

395.06. (a) Every officer and enlisted member of the California National Guard who, in order to undertake active military duty in the service of the state when the Governor has issued a proclamation of a state of insurrection pursuant to Section 143, or a proclamation of a state of extreme emergency or when the California National Guard is on active duty pursuant to Section 146, or a service member called to active service or duty under Chapter 7.5 (commencing with Section 400), has left a position, other than a temporary position, in private employment, receives a certificate of satisfactory service in the California National Guard or an equivalent thereof, is still qualified to perform the duties of that position, and makes application within 40 days after release from service shall be considered as on leave of absence during that period and shall be restored by the former employer to the former position or to a position of similar seniority, status, and pay without loss of retirement or other benefits, unless the employer's circumstances have so changed as to make it impossible or unreasonable to do so, and shall not be discharged from the position without cause within one year after being restored to the position.

(b) Every officer and enlisted member who has left a part-time position in private employment for purposes of service pursuant to subdivision (a), receives a certificate of satisfactory service in the California National Guard or an equivalent thereof, is still qualified to perform the duties of that position, and makes application within five days after release from service shall be considered as on leave of absence during that period and shall be restored by the former employer to the former position or to a position of similar seniority, status, and pay, if any exist, and shall not be discharged from the position without cause within one year after being restored to the position.

(c) If any employer fails or refuses to comply with this section, the superior court of the county in which the employer maintains a place of business may, upon the filing of a motion, petition, or other appropriate pleading by the person entitled to the benefits of this section, specifically require the employer to comply with this section and compensate the person for any loss of wages or benefits suffered by reason of the employer's unlawful action. The court shall order a speedy hearing and
shall advance it on the calendar. Upon application to the district attorney of the county in which the employer maintains a place of business by any person claiming to be entitled to the benefits of this section, the district attorney, if reasonably satisfied that the person is entitled to these benefits, shall appear and act as attorney for the person in the amicable adjustment of the claim or in the filing of any motion, petition, or other appropriate pleading and the prosecution thereof to specifically require the employer to comply with this section. No fees or court costs are required to be paid by the person applying for these benefits.

SEC. 4. Section 399 of the Military and Veterans Code is repealed.
SEC. 5. Section 399.5 of the Military and Veterans Code is repealed.
SEC. 6. Chapter 7.5 (commencing with Section 400) is added to Part 1 of Division 2 of the Military and Veterans Code, to read:

CHAPTER 7.5. PROTECTIONS

400. For purposes of this chapter, the following definitions apply:
   (a) “Service member” means both of the following:
      (1) Officers and enlisted members of the National Guard called or ordered into active state service by the Governor pursuant to the provisions of Section 143 or 146 or into active federal service by the President of the United States pursuant to Title 10 or 32 of the United States Code.
      (2) Reservists of the United States Military Reserve who have been called to full-time active duty.
   (b) “Military service” means full-time active state service or full-time active federal service, as defined in paragraph (1) of subdivision (a), or full-time active duty of a reservist, as defined in paragraph (2) of subdivision (a), for a period in excess of seven days in any 14-day period. For any service member who has been called to active service or duty since September 11, 2001, to engage in homeland defense against terrorism, his or her days of service prior to the effective date of this section shall be credited toward this seven-day period.

401. (a) Application by a service member for, or receipt by a service member of, a stay, postponement, or suspension pursuant to this chapter in the payment of any tax, fine, penalty, insurance premium, or other civil obligation or liability of that person shall not itself, without regard to other considerations, provide the basis for any of the following:
   (1) A determination by any lender or other person that the service member is unable to pay any civil obligation or liability in accordance with its terms.
   (2) With respect to a credit transaction between a creditor and the service member, any of the following:
      (A) A denial or revocation of credit by the creditor.
(B) A change by the creditor in the terms of an existing credit arrangement.

(C) A refusal by the creditor to grant credit to the service member in substantially the amount or on substantially the terms requested.

(3) An adverse report relating to the creditworthiness of the service member by or to any person or entity engaged in the practice of assembling or evaluating consumer credit information.

(4) A refusal by an insurer to insure the service member.

(b) Any person violating any provision of this section is liable for actual damages and reasonable attorney’s fees incurred by the injured party.

(c) Any person violating any provision of this section is guilty of a misdemeanor, and shall be punishable by imprisonment not to exceed one year or by a fine not to exceed one thousand dollars ($1,000), or both.

402. (a) In any action or proceeding commenced in any court, if there shall be a default of any appearance by the defendant, the plaintiff, before entering judgment shall file in the court a declaration under penalty of perjury setting forth facts showing that the defendant is not in the military service. If unable to file that declaration, the plaintiff shall, in lieu thereof, file a declaration setting forth either that the defendant is in the service or that the plaintiff is not able to determine whether or not the defendant is in the service. If a declaration is not filed showing that the defendant is not in the military service, no judgment shall be entered without first securing an order of court directing that entry, and no order shall be made if the defendant is in the military service until after the court appoints an attorney to represent the defendant and protect his or her interest, and the court shall, on application, make that appointment. Unless it appears that the defendant is not in the military service the court may require, as a condition before judgment is entered, that the plaintiff file a bond approved by the court conditioned to indemnify the defendant, if in the military service, against any loss or damage that he or she may suffer by reason of any judgment should the judgment be thereafter set aside in whole or in part. The court may make such other and further order or enter that judgment as in its opinion may be necessary to protect the rights of the defendant under this section.

(b) Any person who shall, for purposes of this section, make or use a declaration declared to be true under penalty of perjury, knowing it to be false, is guilty of a misdemeanor and shall be punishable by imprisonment not to exceed one year or by a fine not to exceed one thousand dollars ($1,000), or both.

(c) In any action or proceeding in which a service member is a party, if the service member does not personally appear therein or is not represented by an authorized attorney, the court may appoint an attorney to represent him or her. In that case a bond may be required and an order
made to protect the rights of the service member. However, no attorney appointed under this chapter to protect a service member shall have the power to waive any right of the person for whom he or she is appointed or bind him or her by his or her acts.

(d) If any judgment shall be rendered in any action or proceeding governed by this chapter against any service member during the period of that service or within 30 days thereafter, and it appears that the service member was prejudiced by reason of his or her military service in making his or her defense thereto, the judgment may, upon application made by the service member or his or her legal representative not later than 90 days after the termination of the service, be opened by the court rendering the same and the defendant or his or her legal representative let in to defend; provided the application states a meritorious or legal defense to the action or some part thereof. Vacating, setting aside, or reversing any judgment by reason of this chapter shall not impair any right or title acquired by any bona fide purchaser for value under that judgment.

403. (a) At any stage in any action or proceeding in which a service member is involved, either as plaintiff or defendant, during the period of military service or within 60 days thereafter, the court may, in its discretion on its own motion, and shall, on application to it by the service member or some person on his or her behalf, stay the action or proceeding unless, in the opinion of the court, the ability of the plaintiff to prosecute the action or the defendant to conduct his or her defense is not materially affected by reason of his or her military service.

(b) When an action for compliance with the terms of any contract is stayed pursuant to this section, no fine or penalty shall accrue by reason of failure to comply with the terms of the contract during the period of the stay, and in any case where a person fails to perform any obligation and if a fine or penalty for the nonperformance is incurred a court may, on those terms as may be just, provide relief against the enforcement of that fine or penalty if it appears that the person who would suffer by that fine or penalty was in the military service when the penalty was incurred and that by reason of military service the ability of the person to pay or perform was thereby materially impaired.

(c) In any action or proceeding against a service member, before or during the period of the service, or within 60 days thereafter, the court may, in its discretion on its own motion, or shall, upon application to it by the service member or some person on his or her behalf, unless in the opinion of the court the ability of the defendant to comply with the judgment or order entered or sought is not materially affected by reason of his or her military service, do either of the following:

(1) Stay the execution of any judgment or order entered against a service member.
(2) Vacate or stay any attachment or garnishment of property, money, or debts in the hands of another, whether before or after judgment.

(d) Any stay of any action, proceeding, attachment, or execution ordered by any court under this section may, except as otherwise provided, be ordered for the period of military service and three months thereafter or any part of that period, and subject to those terms as may be just, including terms with respect to payment in installments of those amounts at those times as the court may fix. If the service member is a codefendant with others the plaintiff may nevertheless, by leave of court, proceed against the others.

404. (a) The period of military service shall not be included in computing any period now or hereafter to be limited by any law, regulation, or order for the bringing of any action or proceeding in any court, board, bureau, commission, department, or other agency of government by or against any service member or by or against his or her heirs, executors, administrators, or assigns, whether the cause of action or the right or privilege to institute the action or proceeding accrued prior to or during the period of service, nor shall any part of the period be included in computing any period now or hereafter provided by any law for the redemption of real property sold or forfeited to enforce any obligation, tax, or assessment.

(b) This section shall not apply with respect to any period of limitation prescribed by or under the federal Internal Revenue Code.

(c) Any person violating any provision of this section is guilty of a misdemeanor, and shall be punishable by imprisonment not to exceed one year or by a fine not to exceed one thousand dollars ($1,000), or both.

405. No obligation or liability bearing interest at a rate in excess of 6 percent per year incurred by a service member before that person’s entry into service shall, during any part of the period of military service, bear interest at a rate in excess of 6 percent per year unless, in the opinion of the court, upon application thereto by the obligee, the ability of the service member to pay interest upon that obligation or liability at a rate in excess of 6 percent per year is not materially affected by reason of that service, in which case the court may make that order as in its opinion may be just. As used in this section, “interest” includes service charges, renewal charges, fees, or any other charges, except bona fide insurance, in respect of any obligation or liability.

406. (a) No eviction or distress shall be made during the period of military service specified in Section 400, during which a service member is called to active state service pursuant to Section 143 or 146 or active federal service pursuant to Title 10 or 32 of the United States Code or active duty, until 30 days after the service member is released from active service or duty if the premises are occupied primarily for dwelling purposes by the spouse, children, or other dependents of a service
member, except upon leave of court granted upon application therefor or granted in an action or proceeding affecting the right of possession.  

(b) On any application or in any action under this section, the court may on its own motion, and shall, on application, stay the proceedings for the period specified in subdivision (a) or rather than granting a complete stay, the court may require the tenant to make regular partial payments during the service member’s period of military service, or the court may make any other order that it finds to be just, unless the court finds that the ability of the tenant to pay the agreed rent is not materially affected by that military service. Where such stay is made by the court, the owner of the premises shall be entitled, upon application therefor, to relief in respect of those premises similar to that granted persons in military service in Sections 407, 408, and 411 to that extent and for that period as may appear to the court to be just.

(c) Any person who knowingly takes part in any eviction or distress as provided in this section or who attempts to do so, is guilty of a misdemeanor, and shall be punishable by imprisonment not to exceed one year or by a fine not to exceed one thousand dollars ($1,000), or both.

407. (a) No person who has received, or whose assignor has received, under a contract for the purchase of real or personal property, a deposit or installment of the purchase price, or a deposit or installment under the contract, from a person or from the assignor of a person who, after the date of payment of the deposit or installment, has entered military service, shall exercise any right or option under that contract to rescind or terminate the contract or resume possession of the property for nonpayment of any installment due or for any other breach of its terms occurring prior to or during the period of that military service, except by action in a court of competent jurisdiction.

(b) Upon the hearing of that action as provided in subdivision (a), the court may order the repayment of prior installments or deposits or any part, as a condition of terminating the contract and resuming possession of the property, or may, in its discretion, on its own motion, and shall, on application to it by the service member or some person on the service member’s behalf, order a stay of proceedings as the court deems just, unless in the opinion of the court, the ability of the defendant to comply with the terms of the contract is not materially affected by reason of the service; or it may make any other disposition of the case as may be equitable to conserve the interests of all parties.

(c) Any person who shall knowingly resume possession of property that is the subject of this section in a manner other than as provided in subdivision (a), or attempts to do so, is guilty of a misdemeanor, and shall be punishable by imprisonment not to exceed one year or by a fine not to exceed one thousand dollars ($1,000), or both.
408. (a) This section shall apply only to obligations secured by mortgage, trust deed, or other security in the nature of a mortgage upon real or personal property owned by a service member at the commencement of the period of the military service and still so owned by the service member whose obligations originated prior to the person’s period of military service.

(b) In any proceeding commenced in any court during the period of military service to enforce that obligation as provided in subdivision (a) arising out of nonpayment of any sum due or out of any other breach of the terms of the mortgage, trust deed, or other security occurring prior to or during the period of the service the court may, after hearing and in its discretion on its own motion, and shall, on application to it by the service member or some person on the defendant’s behalf, unless in the opinion of the court the ability of the defendant to comply with the terms of the obligation is not materially affected by reason of the defendant’s military service, do either of the following:

(1) Stay the proceedings for any period as the court deems just.

(2) Make any other disposition of the case as may be equitable to conserve the interests of all parties.

(c) No sale, foreclosure, or seizure of property for nonpayment of any sum due under any obligation as provided in subdivision (a), or for any other breach of the terms thereof, whether under a power of sale, under a judgment entered upon warrant of attorney to confess judgment contained therein, or otherwise, shall be valid if made during the period of military service or within three months thereafter, except pursuant to an agreement between the parties, unless upon an order previously granted by the court and a return thereto made and approved by the court.

(d) Any person who shall knowingly make or cause to be made any sale, foreclosure, or seizure of property, defined as invalid by subdivision (c), or attempts to do so, is guilty of a misdemeanor, and shall be punishable by imprisonment not to exceed one year or by a fine not to exceed one thousand dollars ($1,000), or both.

409. (a) This section shall apply to any lease covering premises occupied for dwelling, professional, business, agricultural, or similar purposes in any case in which the lease was executed by or on the behalf of a person who, after the execution of such lease, entered military service, as defined by Section 400.

(b) Any lease, as provided in subdivision (a), may be terminated by notice in writing delivered to the lessor or to the lessor’s agent by the lessee at any time following the date of the beginning of the period of military service. Delivery of this notice may be accomplished by placing it in an envelope properly stamped and duly addressed to the lessor or to the lessor’s agent and depositing the notice in the United States mail. Termination of any lease providing for monthly payment of rent shall be
effective on the last day of the month following notice and in any case, no more than 45 days after notice is provided to the lessor and payable subsequent to the date when the notice is delivered or mailed. In the case of all other leases, termination shall be effected on the last day of the month following the month in which the notice is delivered or mailed and, in that case, any unpaid rent for a period preceding termination shall be prorated and any rent paid in advance for a period succeeding termination shall be refunded by the lessor. Upon application by the lessor to the appropriate court prior to the termination period provided for in the notice, any relief granted in this paragraph shall be subject to any modification or restriction as in the opinion of the court justice and equity may, in the circumstances, require.

(c) Any person who shall knowingly seize, hold, or detain the personal effects, clothing, furniture, or other property of any person who has lawfully terminated a lease covered by this section, or in any manner interfered with the removal of that property from the premises covered by that lease, for the purpose of subjecting or attempting to subject any of the property to a claim for rent accruing subsequent to the date of termination of the lease, or attempts to do so, is guilty of a misdemeanor, and shall be punishable by imprisonment not to exceed one year or by a fine not to exceed one thousand dollars ($1,000), or both.

411. (a) Where any life insurance policy on the life of a service member in military service has been assigned prior to that person’s period of military service to secure the payment of any obligation of the person, no assignee of the policy, except the insurer in connection with a policy loan, shall, during the period of military service of the insured or within one year thereafter, except upon the consent in writing of the insured made during that period or when the premiums thereon are due and unpaid or upon the death of the insured, exercise any right or option by virtue of that assignment unless upon leave of court granted upon an application made therefor by the assignee. The court may thereupon refuse to grant that leave unless in the opinion of the court the ability of the obligor to comply with the terms of the obligation is not materially affected by reason of his or her military service.

(b) No person shall exercise any right to foreclose or enforce any lien for storage of household goods, furniture, or personal effects of a service member during that person’s period of military service and for three months thereafter, except upon an order previously granted by a court upon application therefor and a return thereto made and approved by the court. In that proceeding the court may, after hearing, in its discretion on its own motion, and shall, on application to it by a service member or some person on his or her behalf, unless in the opinion of the court the ability of the defendant to pay the storage charges due is not materially
affected by reason of his or her military service, do either of the following:

(1) Stay the proceedings as provided in this chapter.
(2) Make that other disposition of the case as may be equitable to conserve the interest of all parties. This section shall not be construed in any way as affecting or as limiting the scope of Section 408.

(c) A person violating any provision of this section is guilty of a misdemeanor, and shall be punishable by imprisonment not to exceed one year or by a fine not to exceed one thousand dollars ($1,000), or both.

411. (a) This section shall apply when any taxes or assessments, whether general or special, other than taxes on income, whether falling due prior to or during the period of military service, in respect of personal property, money, or credits, or real property owned and occupied for dwelling, professional, business, or agricultural purposes by a service member or his or her dependents at the commencement of the service member’s period of military service and still so occupied by the service member’s dependents or employees are not paid.

(b) No sale of this property shall be made to enforce the collection of any tax or assessment, or any proceeding or action commenced for that purpose, except upon leave of court granted upon application made therefor by the collector of taxes or other officer whose duty it is to enforce the collection of taxes or assessments. The court thereupon, unless in its opinion the ability of the service member to pay the taxes or assessments is not materially affected by reason of that service, may stay the proceedings or sale, as provided in this section, for a period extending not more than six months after the termination of the period of military service.

(c) When by law this property may be sold or forfeited to enforce the collection of any tax or assessment, the service member shall have the right to redeem or commence an action to redeem that property, at any time not later than six months after the termination of the period of military service.

(d) Whenever any tax or assessment shall not be paid when due, the tax or assessment due and unpaid shall bear interest until paid at the rate of 6 percent per year, and no other penalty or interest shall be incurred by reason of that nonpayment. Any lien for any unpaid taxes or assessment shall also include that interest thereon.

412. (a) A service member may, at any time during his or her period of military service or within six months thereafter, apply to a court for relief in respect of any obligation or liability incurred by the service member prior to his or her period of military service or in respect of any tax or assessment whether falling due prior to or during his or her period of military service. The court, after appropriate notice and hearing, unless in its opinion the ability of the applicant to comply with the terms
of the obligation or liability or to pay the tax or assessment has not been materially affected by reason of his or her military service, may grant the following relief:

(1) In the case of an obligation payable under its terms in installments under a contract for the purchase of real estate, or secured by a mortgage or other instrument in the nature of a mortgage upon real estate, a stay of the enforcement of the obligation during the applicant’s period of military service and, from the date of termination of the period of military service or from the date of application if made after the service, for a period equal to the period of the remaining life of the installment contract or other instrument plus a period of time equal to the period of military service of the applicant or any part of the combined period, subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination of the period of military service or from the date of application, as the case may be, in equal installments during the combined period at the rate of interest on the unpaid balance as is prescribed in the contract, or other instrument evidencing the obligation, for installments paid when due, and subject to any other terms as may be just.

(2) In the case of any other obligation, liability, tax, or assessment, a stay of the enforcement thereof during the applicant’s period of military service and, from the date of termination of the period of military service or from the date of application if made after the service, for a period of time equal to the period of military service of the applicant or any part of that period, subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination of the period of military service or the date of application, as the case may be, in equal periodic installments during the extended period at the rate of interest as may be prescribed for the obligation, liability, tax, or assessment, if paid when due, and subject to any other terms as may be just.

(b) When any court has granted a stay as provided in this section, no fine or penalty shall accrue during the period the terms and conditions of the stay are complied with by reason of failure to comply with the terms or conditions of the obligation, liability, tax, or assessment in respect of which the stay was granted.

(c) Nothing in this section shall permit a service member ordered to military service to obtain a delay, deferment, or stay on an obligation to pay child support. Nothing in this section shall preclude a service member ordered to military service from seeking a modification of an order to pay child support due to a reduction in income resulting from the order to service, or from seeking the imposition of the maximum interest rate provided by this chapter on arrearages in child support payments existing prior to the order to service.
413. (a) A person who by reason of military service is entitled to the rights and benefits of this chapter shall also be entitled upon release from that military service to reinstatement of any health insurance that was in effect on the day before the service commenced, and was terminated effective on a date during the period of the service.

(b) An exclusion or a waiting period may not be imposed in connection with reinstatement of health insurance coverage of a health or physical condition of a person under subdivision (a), or a health or physical condition of any other person who is covered by the insurance by reason of the coverage of such person, if any of the following apply:

(1) The condition arose before or during that person's period of service.

(2) An exclusion or waiting period would not have been imposed for the condition during a period of coverage resulting from participation by that person in the insurance.

(3) The condition of the person has not been determined by the Secretary of Veterans Affairs to be a disability incurred or aggravated in the line of duty within the meaning of Section 105 of Title 38 of the United States Code.

414. Dependents of a service member shall be entitled to the benefits accorded to service members under Sections 406 to 413, inclusive, upon application to a court therefor, unless in the opinion of the court the ability of the dependents to comply with the terms of the obligation, contract, lease, or bailment has not been materially impaired by reason of the military service of the person upon whom the applicants are dependent.

415. The collection from any service member of any tax on the income of the person, whether falling due prior to or during his or her period of military service, shall be deferred for a period extending not more than six months after the termination of his or her period of military service if the person's ability to pay the tax is materially impaired by reason of the service. No interest on any amount of tax, collection of which is deferred for any period under this chapter, and no penalty for nonpayment of the amount during that period, shall accrue for any period of deferment by reason of that nonpayment. The running of any statute of limitations against the collection of any tax by distraint or otherwise shall be suspended for the period of military service of any individual the collection of whose tax is deferred under this section, and for an additional period of nine months beginning with the day following the period of military service.

416. Where in any proceeding to enforce a civil right in any court, it is made to appear to the satisfaction of the court that any interest, property, or contract has been transferred or acquired since the effective date of this chapter with the intent to delay the just enforcement of that
right by taking advantage of the benefits provided under this chapter, the court shall enter such judgment or make such order as might lawfully be entered or made, notwithstanding any contrary provision of this chapter.

417. (a) In any proceeding under this chapter, a certificate signed by an appropriately authorized officer of the military department, branch, or unit in which a service member is serving shall be prima facie evidence as to any of the following facts stated in that certificate:

(1) That a person named has not been, or is, or has been in the military service.

(2) The time when and the place where the person entered military service.

(3) The person’s residence at that time, and the rank, branch, and unit of the service that the person entered.

(4) The dates within which the person was in the military service.

(5) The monthly pay received by the person at the date of issuing the certificate.

(6) The time when and the place where the person died in or was discharged from the service.

(b) It shall be the duty of the authorized officer to furnish that certificate on application, and any certificate, when purporting to be signed by an officer purporting on the face of the certificate to have been so authorized, shall be prima facie evidence of its contents and of the authority of the signer to issue the certificate.

(c) Where a person in military service has been reported missing, he or she shall be presumed to continue in the service until accounted for, and no period herein limited which begins or ends with the death of the person shall begin or end until the death of the person is in fact reported to or found by the United States Department of Defense or any court or board thereof, or the Military Department or any court or board thereof, or until such death is found by a court of competent jurisdiction.

418. Any interlocutory order made by any court under the provisions of this chapter may, upon the court’s own motion or otherwise, be revoked, modified, or extended by it upon notice to the parties affected as it may require.

419. The provisions of this chapter are severable. If any provision of this chapter 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.

420. It is the intent of the Legislature that qualification for the benefits and protections conferred upon service members, as defined by Section 400, by this chapter apply retroactively to September 11, 2001. However, it is also the intent of the Legislature that the benefits and protections that attach to qualified service members under this chapter apply only on a prospective basis.
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.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that economic relief may be provided as soon as possible to members of the California National Guard or California members of the United States Military Reserve who were called into active service or duty as a result of the terrorist attacks in America, it is necessary that this act take effect immediately.

CHAPTER 61

An act to amend Sections 270.1 and 278 of, and to add Sections 278.5 and 2881.4 to, the Public Utilities Code, relating to telecommunications, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 20, 2002. Filed with Secretary of State June 21, 2002.]

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

SECTION 1. Section 270.1 of the Public Utilities Code is amended to read:

270.1. (a) Notwithstanding any other provision of law, the commission may authorize the trustee of the California High-Cost Fund-B Trust to transfer to the Deaf Equipment Acquisition Fund Trust (DEAF Trust) money sufficient to cover the costs of the programs as specified in subdivision (a) of Section 278, including, but not limited to, all costs specified in subdivision (c) of Section 278. The amount of any transfer of money authorized may not exceed the cost of operating the programs for six months. The commission shall also establish other terms of the transfer, as it determines to be appropriate.

(b) The commission shall reimburse the California High-Cost Fund-B Trust for any transfer of money to the DEAF Trust authorized
pursuant to subdivision (a), with interest as determined by the commission.

(c) A sum equivalent to the amount of money transferred to the Deaf Equipment Acquisition Fund Trust (DEAF Trust) pursuant to subdivision (a) is hereby appropriated from the Deaf and Disabled Telecommunications Program Administrative Committee Fund to the commission, for allocation to the California High-Cost Fund-B Trust, for purposes of subdivision (b).

(d) Funds may not be transferred from the California High-Cost Fund-B Trust to the DEAF Trust pursuant to subdivision (a) after September 30, 2001.

(e) Commencing on October 1, 2001, and until a date not later than June 30, 2002, reimbursements made to the California High-Cost Fund-B Trust pursuant to subdivisions (b) and (c) shall be deposited in a separate memorandum account within the DEAF Trust, subject to the terms specified in subdivision (b).

(f) On July 1, 2002, any funds in the DEAF Trust deposited in the memorandum account for purposes of reimbursing the California High-Cost Fund-B Trust shall revert to the Controller for deposit in the California High-Cost Fund-B Trust Committee Fund in the State Treasury rather than the Deaf and Disabled Telecommunications Program Administrative Committee Fund.

(g) Commencing on July 1, 2003, any funds remaining in the DEAF Trust, exclusive of those identified in subdivision (f), shall revert to the Deaf and Disabled Telecommunications Program Administrative Committee Fund in the State Treasury.

SEC. 2. Section 278 of the Public Utilities Code is amended to read:

278. (a) (1) Commencing on July 1, 2003, there is hereby created the Telecommunications Access for Deaf and Disabled Administrative Committee, formerly the Deaf and Disabled Telecommunications Program Administrative Committee, as an advisory board to advise the commission regarding the development, implementation, and administration of programs to provide specified telecommunications services and equipment to persons in this state who are deaf or disabled, as provided for in Sections 2881, 2881.1, and 2881.2.

(2) In addition to the membership qualifications established by the commission pursuant to subdivision (a) of Section 271, the commission shall establish qualifications for persons to serve as members of the Telecommunications Access for Deaf and Disabled Administrative Committee so that consumers of telecommunications services for the deaf and disabled comprise not less than two-thirds of the membership of the committee. To the extent feasible, one of those members shall have experience in the administration of programs similar to those provided for in Sections 2881, 2881.1, and 2881.2.
(3) As part of its advisory role, as specified in paragraph (1), the Telecommunications Access for Deaf and Disabled Administrative Committee shall advise the commission regarding contracts and agreements related to the Deaf and Disabled Telecommunications Program as specified in subdivisions (d) and (e) of Section 2881.4.

(b) All revenues collected by telephone corporations in rates authorized by the commission to fund the programs specified in subdivision (a) shall be submitted to the commission pursuant to a schedule established by the commission. Commencing on July 1, 2003, and continuing thereafter, the commission shall transfer the moneys received, and all unexpended revenue collected prior to July 1, 2003, to the Controller for deposit in the Deaf and Disabled Telecommunications Program Administrative Committee Fund. All interest earned by moneys in the fund shall be deposited in the fund. Those revenues that are collected pursuant to subdivision (d) of Section 2881 shall be accounted for separately, as required by subdivision (b) of Section 2881.2, and deposited in the fund created by the commission pursuant to subdivision (b) of Section 2881.2.

(c) Moneys appropriated from the Deaf and Disabled Telecommunications Program Administrative Committee Fund to the commission shall be utilized exclusively by the commission for the programs specified in subdivision (a), including all costs of the committee and the commission associated with the administration and oversight of the programs and the fund.

(d) Commencing on July 1, 2003, staffing costs incurred by the commission for oversight and administration of the programs described in subdivision (a) shall be funded by moneys appropriated from the Deaf and Disabled Telecommunications Program Administrative Committee Fund.

SEC. 3. Section 278.5 is added to the Public Utilities Code, to read:

278.5. (a) It is the intent of the Legislature that existing members of the Deaf and Disabled Telecommunications Program Administrative Committee should serve out their current terms of office as members of the committee, but not to exceed July 1, 2003.

(b) The Deaf and Disabled Telecommunications Program Administrative Committee shall develop and submit, not later than October 1, 2002, recommendations to the commission for the administration and governance of the programs described in Sections 2881, 2881.1, and 2881.2, including recommendations for the establishment of a designated office and program function, within state government, staffed in a manner designed to provide expert oversight and governance to ensure the long-term quality and integrity of programs and services offered through the Deaf and Disabled Telecommunications Program.
SEC. 4. Section 2881.4 is added to the Public Utilities Code, to read:

2881.4. (a) The Legislature finds and declares all of the following:

(1) Section 278 requires the commission to transfer to the Controller
for deposit in the Deaf and Disabled Telecommunications Program
Administrative Committee Fund all revenues collected by telephone
corporations to fund programs to provide specified telecommunications
services and equipment to deaf, disabled, and hearing-impaired persons,
as specified in Sections 2881, 2881.1, and 2881.2.

(2) The commission issued a report to the Legislature in May 2001,
addressing compliance issues pertaining to the programs specified in
Sections 2881, 2881.1, and 2881.2, including a recommendation to
secure legislative authorization for the commission to contract with
outside entities for the provision of services and equipment mandated by
Sections 2881, 2881.1, and 2881.2.

(3) The telecommunications services and equipment provided to
deaf, disabled, and hearing-impaired individuals and their families, as
specified in Sections 2881, 2881.1, and 2881.2, are of such a highly
specialized and technical nature that the necessary expert knowledge,
ability, and experience are not available within the current state civil
service system.

(4) It is the intent of the Legislature, in enacting this section, to do all
of the following:

(A) Maintain the availability of the state’s current statewide
infrastructure of telecommunications services and equipment to deaf,
disabled, and hearing-impaired persons, as provided for in Sections
2881, 2881.1, and 2881.2, as essential to maintaining public health and
safety.

(B) Authorize the commission to enter into contracts for the
provision of telecommunications services and equipment for deaf,
disabled, and hearing-impaired persons in a manner that protects and
enhances the current statewide infrastructure and coordinated delivery
of those services and equipment and includes a priority for maintaining
long-term continuity of program administration and maximum
involvement of the deaf and disabled community in program
governance.

(C) Strengthen program priorities for expanded outreach through
continuing consultation with, and participation by, the deaf, disabled,
and hearing-impaired community in order to ensure the state’s network
of services reach hard-to-serve populations, including rural, innercity,
and urban areas.

(D) Develop a mechanism to achieve cost-effective and timely
deployment of new and emerging telecommunications technologies, to
the extent fiscally and economically feasible.
(b) In order for the commission to ensure continued provision of telecommunications services and equipment for deaf, disabled, and hearing-impaired persons, the commission, subject to annual appropriation of funds by the Legislature and consistent with state contracting requirements, may contract with entities, including nonprofit entities, or persons that have the necessary expert knowledge, ability, and experience to provide, manage, or operate the programs described in Sections 2881, 2881.1, and 2881.2.

(c) The commission may enter into contracts pursuant to subdivision (b) of Section 19130 of the Government Code for the services and equipment contemplated by the programs described in Sections 2881, 2881.1, and 2881.2.

(d) The commission may include provisions that accomplish any of the following in contracts authorized by this section:

1. Establish standards and procedures, including prior commission approval, for subcontracting.
2. Establish standards and procedures regarding personnel and accounting practices.
3. Require budget approval.
4. Require periodic audits.
6. Establish standards and procedures to investigate and resolve complaints.
7. Provide for any other terms or restrictions as the commission finds necessary to ensure that the public funds are used in accordance with the goals of the Legislature and the commission.

(e) Notwithstanding any other provision of law, any contract entered into pursuant to this section may provide for periodic advance payments for telecommunications services to be performed or telecommunications equipment to be provided. No advance payment made pursuant to this section may exceed 25 percent of the total annual contract amount.

(f) Any contractor the commission selects shall demonstrate knowledge of and the capacity to provide specialized telecommunications services and equipment to deaf, disabled, and hearing-impaired persons, and shall be required to consult with the Telecommunications Access for Deaf and Disabled Administrative Committee regarding the specialized needs of individuals utilizing program services and equipment, as specified in Sections 2881, 2881.1, and 2881.2.

(g) The commission shall, to the extent feasible and consistent with state civil service requirements, employ staff overseeing the programs
described in Sections 2881, 2881.1, and 2881.2 who are members of the deaf, disabled, and hearing-impaired community.

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 the programs specified in Sections 2881, 2881.1, and 2881.2 of the Public Utilities Code remain in continuous operation, it is necessary for this act to take effect immediately.

CHAPTER 62

An act to amend Section 1463.007 of the Penal Code, relating to delinquent fines.

[Approved by Governor June 20, 2002. Filed with Secretary of State June 21, 2002.]

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

SECTION 1. Section 1463.007 of the Penal Code is amended to read:

1463.007. Notwithstanding any other provision of law, any county or court that implements or has implemented a comprehensive program to identify and collect delinquent fines and forfeitures, with or without a warrant having been issued against the alleged violator, if the base fines and forfeitures are delinquent, may deduct and deposit in the county treasury or in the trial court operations fund the cost of operating that program, excluding capital expenditures, from any revenues collected thereby prior to making any distribution of revenues to other governmental entities required by any other provision of law. Any county or court may establish a minimum base fine or forfeiture amount for inclusion in the program. This section applies to costs incurred by a court or a county on or after June 30, 1997, and prior to the implementation of a time payments agreement, and shall supersede any prior law to the contrary. This section does not apply to a defendant who is paying a fine or forfeiture through time payments, unless he or she is delinquent in making payments according to the agreed-upon payment schedule. For purposes of this section, a comprehensive collection program is a separate and distinct revenue collection activity and shall include at least 10 of the following components:

(a) Monthly bill statements to all debtors.
(b) Telephone contact with delinquent debtors to apprise them of their failure to meet payment obligations.
(c) Issuance of warning letters to advise delinquent debtors of an outstanding obligation.
(d) Requests for credit reports to assist in locating delinquent debtors.
(e) Access to Employment Development Department employment and wage information.
(f) The generation of monthly delinquent reports.
(g) Participation in the Franchise Tax Board’s tax intercept program.
(h) The use of Department of Motor Vehicle information to locate delinquent debtors.
(i) The use of wage and bank account garnishments.
(j) The imposition of liens on real property and proceeds from the sale of real property held by a title company.
(k) The filing of objections to the inclusion of outstanding fines and forfeitures in bankruptcy proceedings.
(l) Coordination with the probation department to locate debtors who may be on formal or informal probation.
(m) The initiation of drivers’ license suspension actions where appropriate.
(n) The capability to accept credit card payments.

CHAPTER 63

An act to amend Section 832.7 of the Penal Code, relating to peace officers.

[Approved by Governor June 20, 2002. Filed with Secretary of State June 21, 2002.]

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

SECTION 1. Section 832.7 of the Penal Code is amended to read:

832.7. (a) Peace officer personnel records and records maintained by any state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section shall not apply to investigations or proceedings concerning the conduct of police officers or a police agency conducted by a grand jury, a district attorney’s office, or the Attorney General’s office.
(b) Notwithstanding subdivision (a), a department or agency shall release to the complaining party a copy of his or her own statements at the time the complaint is filed.

(c) Notwithstanding subdivision (a), a department or agency which employs peace officers may disseminate data regarding the number, type, or disposition of complaints (sustained, not sustained, exonerated, or unfounded) made against its officers if that information is in a form which does not identify the individuals involved.

(d) Notwithstanding subdivision (a), a department or agency which employs peace officers may release factual information concerning a disciplinary investigation if the peace officer who is the subject of the disciplinary investigation, or the peace officer’s agent or representative, publicly makes a statement he or she knows to be false concerning the investigation or the imposition of disciplinary action. Information may not be disclosed by the peace officer’s employer unless the false statement was published by an established medium of communication, such as television, radio, or a newspaper. Disclosure of factual information by the employing agency pursuant to this subdivision is limited to facts contained in the peace officer’s personnel file concerning the disciplinary investigation or imposition of disciplinary action that specifically refute the false statements made public by the peace officer or his or her agent or representative.

(e) The department or agency shall provide written notification to the complaining party of the disposition of the complaint within 30 days of the disposition.

The notification described in this subdivision shall not be conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court, or judge of this state or the United States.

(f) Nothing in this section shall affect the discovery or disclosure of information contained in a peace officer’s personnel file pursuant to Section 1043 of the Evidence Code.

CHAPTER  64

An act to add Section 787 to the Penal Code, relating to jurisdiction, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 20, 2002. Filed with Secretary of State June 21, 2002.]
The people of the State of California do enact as follows:

SECTION 1. Section 787 is added to the Penal Code, to read:

787. When multiple offenses punishable under one or more of Sections 11418, 11418.5, and 11419 occur in more than one jurisdictional territory, and the offenses are part of a single scheme or terrorist attack, the jurisdiction of any of those offenses is in any jurisdiction where at least one of those offenses occurred.

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

To properly prosecute terrorism, which poses an immediate and ongoing threat to the safety of this state and its citizens, it is necessary that this act go into immediate effect.

CHAPTER  65

An act to amend Section 2625 of the Penal Code, relating to prisoners.

[Approved by Governor June 20, 2002. Filed with Secretary of State June 21, 2002.]

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

SECTION 1. Section 2625 of the Penal Code is amended to read:

2625. (a) For the purposes of this section only, the term “prisoner” includes any individual in custody in a state prison, the California Rehabilitation Center, or a county jail, or who is a ward of the Department of the Youth Authority or who, upon a verdict or finding that the individual was insane at the time of committing an offense, or mentally incompetent to be tried or adjudged to punishment, is confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private treatment facility.

(b) In any proceeding brought under Part 4 (commencing with Section 7800) of Division 12 of the Family Code, and Section 366.26 of the Welfare and Institutions Code, where the proceeding seeks to terminate the parental rights of any prisoner, or any proceeding brought under Section 300 of the Welfare and Institutions Code, where the proceeding seeks to adjudicate the child of a prisoner a dependent child of the court, the superior court of the county in which the proceeding is pending, or a judge thereof, shall order notice of any court proceeding regarding the proceeding transmitted to the prisoner.
(c) Service of notice shall be made pursuant to Section 7881 or 7882 of the Family Code or Section 337 or 366.23 of the Welfare and Institutions Code, as appropriate.

(d) Upon receipt by the court of a statement from the prisoner or his or her attorney indicating the prisoner’s desire to be present during the court’s proceedings, the court shall issue an order for the temporary removal of the prisoner from the institution, and for the prisoner’s production before the court. No proceeding may be held under Part 4 (commencing with Section 7800) of Division 12 of the Family Code or Section 366.26 of the Welfare and Institutions Code and no petition to adjudge the child of a prisoner a dependent child of the court pursuant to subdivision (a), (b), (c), (d), (e), (f), (i), or (j) of Section 300 of the Welfare and Institutions Code may be adjudicated without the physical presence of the prisoner or the prisoner’s attorney, unless the court has before it a knowing waiver of the right of physical presence signed by the prisoner or an affidavit signed by the warden, superintendent, or other person in charge of the institution, or his or her designated representative stating that the prisoner has, by express statement or action, indicated an intent not to appear at the proceeding.

(e) In any other action or proceeding in which a prisoner’s parental or marital rights are subject to adjudication, an order for the prisoner’s temporary removal from the institution and for the prisoner’s production before the court may be made by the superior court of the county in which the action or proceeding is pending, or by a judge thereof. A copy of the order shall be transmitted to the warden, superintendent, or other person in charge of the institution not less than 15 days before the order is to be executed. The order shall be executed by the sheriff of the county in which it shall be made, whose duty it shall be to bring the prisoner before the proper court, to keep the prisoner safely, and when the prisoner’s presence is no longer required, to return the prisoner to the institution from which he or she was taken. The expense of executing the order shall be a proper charge against, and shall be paid by, the county in which the order shall be made.

The order shall be to the following effect:

County of ____ (as the case may be).
The people of the State of California to the warden of ____:
An order having been made this day by me, that A. B. be produced in this court as a party in the case of ____, you are commanded to deliver A. B. into the custody of ____ for the purpose of (recite purposes).
Dated this ____ day of ____, 19__. 
(f) When a prisoner is removed from the institution pursuant to this section, the prisoner shall remain in the constructive custody of the warden, superintendent, or other person in charge of the institution.

(g) Notwithstanding any other law, a court may not order the removal and production of a prisoner sentenced to death, whether or not that sentence is being appealed, in any action or proceeding in which the prisoner’s parental rights are subject to adjudication.

CHAPTER 66

An act to amend Section 1203.3 of the Penal Code, relating to domestic violence.

[Approved by Governor June 20, 2002. Filed with Secretary of State June 21, 2002.]

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

SECTION 1. Section 1203.3 of the Penal Code is amended to read:

1203.3. (a) The court shall have authority at any time during the term of probation to revoke, modify, or change its order of suspension of imposition or execution of sentence. The court may at any time when the ends of justice will be subserved thereby, and when the good conduct and reform of the person so held on probation shall warrant it, terminate the period of probation, and discharge the person so held.

(b) The exercise of the court’s authority in subdivision (a) to revoke, modify, change, or terminate probation is subject to the following:

1. Before any sentence or term or condition of probation is modified, a hearing shall be held in open court before the judge. The prosecuting attorney shall be given a two-day written notice and an opportunity to be heard on the matter, except that, as to modifying or terminating a protective order in a case involving domestic violence, as defined in Section 6211 of the Family Code, the prosecuting attorney shall be given a five-day written notice and an opportunity to be heard.

A. If the sentence or term or condition of probation is modified pursuant to this section, the judge shall state the reasons for that modification on the record.

B. As used in this section, modification of sentence shall include reducing a felony to a misdemeanor.

2. No order shall be made without written notice first given by the court or the clerk thereof to the proper probation officer of the intention to revoke, modify, or change its order.
(3) In all cases, if the court has not seen fit to revoke the order of probation and impose sentence or pronounce judgment, the defendant shall at the end of the term of probation or any extension thereof, be by the court discharged subject to the provisions of these sections.

(4) The court may modify the time and manner of the term of probation for purposes of measuring the timely payment of restitution obligations or the good conduct and reform of the defendant while on probation. The court shall not modify the dollar amount of the restitution obligations due to the good conduct and reform of the defendant, absent compelling and extraordinary reasons, nor shall the court limit the ability of payees to enforce the obligations in the manner of judgments in civil actions.

(5) Nothing in this section shall be construed to prohibit the court from modifying the dollar amount of a restitution order pursuant to subdivision (f) of Section 1202.4 at any time during the term of the probation.

(6) The court may limit or terminate a protective order that is a condition of probation in a case involving domestic violence, as defined in Section 6211 of the Family Code. In determining whether to limit or terminate the protective order, the court shall consider if there has been any material change in circumstances since the crime for which the order was issued, and any issue that relates to whether there exists good cause for the change, including, but not limited to consideration of all of the following:

(A) Whether the probationer has accepted responsibility for the abusive behavior perpetrated against the victim.
(B) Whether the probationer is currently attending and actively participating in counseling sessions.
(C) Whether the probationer has completed parenting counseling, or attended alcoholics or narcotics counseling.
(D) Whether the probationer has moved from the state, or is incarcerated.
(E) Whether the probationer is still cohabitating, or intends to cohabitate, with any subject of the order.
(F) Whether the defendant has performed well on probation, including consideration of any progress reports.
(G) Whether the victim desires the change, and is so, the victim’s reasons, whether the victim has consulted a victim advocate, and whether the victim has prepared a safety plan and has access to local resources.
(H) Whether the change will impact any children involved, including consideration of any Child Protective Services information.
(I) Whether the ends of justice would be served by limiting or terminating the order.
(c) If a probationer is ordered to serve time in jail, and the probationer escapes while serving that time, the probation is revoked as a matter of law on the day of the escape.

(d) If probation is revoked pursuant to subdivision (c), upon taking the probationer into custody, the probationer shall be accorded a hearing or hearings consistent with the holding in the case of People v. Vickers (1972) 8 Cal.3d 451. The purpose of that hearing or hearings is not to revoke probation, as the revocation has occurred as a matter of law in accordance with subdivision (c), but rather to afford the defendant an opportunity to require the prosecution to establish that the alleged violation did in fact occur and to justify the revocation.

(e) This section does not apply to cases covered by Section 1203.2.

CHAPTER 67

An act to amend Section 5501 of the Probate Code, relating to nonprobate transfers.

[Approved by Governor June 20, 2002. Filed with Secretary of State June 21, 2002.]

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

SECTION 1. Section 5501 of the Probate Code is amended to read:

5501. For purposes of this part:

(a) “Beneficiary form” means a registration of a security that indicates the present owner of the security and the intention of the owner regarding the person who will become the owner of the security upon the death of the owner.

(b) “Register,” including its derivatives, means to issue a certificate showing the ownership of a certificated security or, in the case of an uncertificated security, to initiate or transfer an account showing ownership of securities.

(c) “Registering entity” means a person who originates or transfers a security title by registration, and includes a broker maintaining security accounts for customers and a transfer agent or other person acting for or as an issuer of securities.

(d) “Security” means a share, participation, or other interest in property, in a business, or in an obligation of an enterprise or other issuer, and includes a certificated security, an uncertificated security, and a security account.

(e) (1) “Security account” means any of the following:
(A) A reinvestment account associated with a security, a securities account with a broker, a cash balance in a brokerage account, cash, cash equivalents, interest, earnings, or dividends earned or declared on a security in an account, a reinvestment account, or a brokerage account, whether or not credited to the account before the owner’s death.

(B) An investment management or custody account with a trust company or a trust department of a bank with trust powers, including the securities in the account, the cash balance in the account, and cash equivalents, and interest, earnings, or dividends earned or declared on a security in the account, whether or not credited to the account before the owner’s death.

(C) A cash balance or other property held for or due to the owner of a security as a replacement for or product of an account security, whether or not credited to the account before the owner’s death.

(2) For the purposes of this subdivision, “cash equivalent” means an investment that is easily converted into cash, including, but not limited to, treasury bills, treasury notes, money market funds, certificates of deposit, and credit union shares.

(f) This section may not be construed to govern cash equivalents in multiple-party accounts that are governed by the California Multiple-Party Accounts Law, Part 2 (commencing with Section 5100).

CHAPTER 68

An act to amend Sections 512.060, 514.020, 515.010, 515.020, 703.580, and 703.610 of the Code of Civil Procedure, relating to debtor and creditor relations.

[Approved by Governor June 20, 2002. Filed with Secretary of State June 21, 2002.]

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

SECTION 1. Section 512.060 of the Code of Civil Procedure is amended to read: 512.060. (a) At the hearing, a writ of possession shall issue if both of the following are found:

(1) The plaintiff has established the probable validity of the plaintiff’s claim to possession of the property.

(2) The undertaking requirements of Section 515.010 are satisfied.

(b) No writ directing the levying officer to enter a private place to take possession of any property shall be issued unless the plaintiff has
established that there is probable cause to believe that the property is located there.

SEC. 2. Section 514.020 of the Code of Civil Procedure is amended to read:

514.020. (a) At the time of levy, the levying officer shall deliver to the person in possession of the property a copy of the writ of possession, a copy of the plaintiff’s undertaking, if any, and a copy of the order for issuance of the writ.

(b) If no one is in possession of the property at the time of levy, the levying officer shall subsequently serve the writ and attached undertaking on the defendant. If the defendant has appeared in the action, service shall be accomplished in the manner provided by Chapter 5 (commencing with Section 1010) of Title 14. If the defendant has not appeared in the action, service shall be accomplished in the manner provided for the service of summons and complaint by Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5.

SEC. 3. Section 515.010 of the Code of Civil Procedure is amended to read:

515.010. (a) Except as provided in subdivision (b), the court shall not issue a temporary restraining order or a writ of possession until the plaintiff has filed an undertaking with the court. The undertaking shall provide that the sureties are bound to the defendant for the return of the property to the defendant, if return of the property is ordered, and for the payment to the defendant of any sum recovered against the plaintiff. The undertaking shall be in an amount not less than twice the value of the defendant’s interest in the property or in a greater amount. The value of the defendant’s interest in the property is determined by the market value of the property less the amount due and owing on any conditional sales contract or security agreement and all liens and encumbrances on the property, and any other factors necessary to determine the defendant’s interest in the property.

(b) If the court finds that the defendant has no interest in the property, the court shall waive the requirement of the plaintiff’s undertaking and shall include in the order for issuance of the writ the amount of the defendant’s undertaking sufficient to satisfy the requirements of subdivision (b) of Section 515.020.

SEC. 4. Section 515.020 of the Code of Civil Procedure is amended to read:

515.020. (a) The defendant may prevent the plaintiff from taking possession of property pursuant to a writ of possession or regain possession of property so taken by filing with the court in which the action was brought an undertaking in an amount equal to the amount of the plaintiff’s undertaking pursuant to subdivision (a) of Section
515.010 or in the amount determined by the court pursuant to subdivision (b) of Section 515.010.

(b) The undertaking shall state that, if the plaintiff recovers judgment on the action, the defendant shall pay all costs awarded to the plaintiff and all damages that the plaintiff may sustain by reason of the loss of possession of the property. The damages recoverable by the plaintiff pursuant to this section shall include all damages proximately caused by the plaintiff’s failure to gain or retain possession.

(c) The defendant’s undertaking may be filed at any time before or after levy of the writ of possession. A copy of the undertaking shall be mailed to the levying officer.

(d) If an undertaking for redelivery is filed and the defendant’s undertaking is not objected to, the levying officer shall deliver the property to the defendant, or, if the plaintiff has previously been given possession of the property, the plaintiff shall deliver the property to the defendant. If an undertaking for redelivery is filed and the defendant’s undertaking is objected to, the provisions of Section 515.030 apply.

SEC. 5. Section 703.580 of the Code of Civil Procedure is amended to read:

703.580. (a) The claim of exemption and notice of opposition to the claim of exemption constitute the pleadings, subject to the power of the court to permit amendments in the interest of justice.

(b) At a hearing under this section, the exemption claimant has the burden of proof.

(c) The claim of exemption is deemed controverted by the notice of opposition to the claim of exemption and both shall be received in evidence. If no other evidence is offered, the court, if satisfied that sufficient facts are shown by the claim of exemption (including the financial statement if one is required) and the notice of opposition, may make its determination thereon. If not satisfied, the court shall order the hearing continued for the production of other evidence, oral or documentary.

(d) At the conclusion of the hearing, the court shall determine by order whether or not the property is exempt in whole or in part. Subject to Section 703.600, the order is determinative of the right of the judgment creditor to apply the property to the satisfaction of the judgment. No findings are required in a proceeding under this section.

(e) The court clerk shall promptly transmit a certified copy of the order to the levying officer. Subject to Section 703.610, the levying officer shall, in compliance with the order, release the property or apply the property to the satisfaction of the money judgment.

(f) Unless otherwise ordered by the court, if an exemption is not determined within the time provided by Section 703.570, the property claimed to be exempt shall be released.
SEC. 6. Section 703.610 of the Code of Civil Procedure is amended to read:

703.610. (a) Except as otherwise provided by statute or ordered by the court, the levying officer shall not release, sell, or otherwise dispose of the property for which an exemption is claimed until an appeal is waived, the time to file an appeal has expired, or the exemption is finally determined.

(b) At any time while the exemption proceedings are pending, upon motion of the judgment creditor or a claimant, or upon its own motion, the court may make any orders for disposition of the property that may be proper under the circumstances of the case. The order may be modified or vacated by the court at any time during the pendency of the exemption proceedings upon any terms that are just.

(c) If an appeal of the determination of a claim of exemption is taken, notice of the appeal shall be given to the levying officer and the levying officer shall hold, release, or dispose of the property in accordance with the provisions governing enforcement and stay of enforcement of money judgments pending appeal.

CHAPTER 69

An act to amend Section 418.10 of the Code of Civil Procedure, relating to personal jurisdiction.

[Approved by Governor June 20, 2002. Filed with Secretary of State June 21, 2002.]

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

SECTION 1. Section 418.10 of the Code of Civil Procedure is amended to read:

418.10. (a) A defendant, on or before the last day of his or her time to plead or within any further time that the court may for good cause allow, may serve and file a notice of motion for one or more of the following purposes:

(1) To quash service of summons on the ground of lack of jurisdiction of the court over him or her.

(2) To stay or dismiss the action on the ground of inconvenient forum.

(3) To dismiss the action pursuant to the applicable provisions of Chapter 1.5 (commencing with Section 583.110) of Title 8.

(b) The notice shall designate, as the time for making the motion, a date not more than 30 days after filing of the notice. The notice shall be served in the same manner, and at the same times, prescribed by
subdivision (b) of Section 1005. The service and filing of the notice shall extend the defendant’s time to plead until 15 days after service upon him or her of a written notice of entry of an order denying his or her motion, except that for good cause shown the court may extend the defendant’s time to plead for an additional period not exceeding 20 days.

(c) If the motion is denied by the trial court, the defendant, within 10 days after service upon him or her of a written notice of entry of an order of the court denying his or her motion, or within any further time not exceeding 20 days that the trial court may for good cause allow, and before pleading, may petition an appropriate reviewing court for a writ of mandate to require the trial court to enter its order quashing the service of summons or staying or dismissing the action. The defendant shall file or enter his or her responsive pleading in the trial court within the time prescribed by subdivision (b) unless, on or before the last day of the defendant’s time to plead, he or she serves upon the adverse party and files with the trial court a notice that he or she has petitioned for a writ of mandate. The service and filing of the notice shall extend the defendant’s time to plead until 10 days after service upon him or her of a written notice of the final judgment in the mandate proceeding. The time to plead may for good cause shown be extended by the trial court for an additional period not exceeding 20 days.

(d) No default may be entered against the defendant before expiration of his or her time to plead, and no motion under this section, or under Section 473 or 473.5 when joined with a motion under this section, or application to the court or stipulation of the parties for an extension of the time to plead, shall be deemed a general appearance by the defendant.

(e) A defendant or cross-defendant may make a motion under this section and simultaneously answer, demur, or move to strike the complaint or cross-complaint.

(1) Notwithstanding Section 1014, no act by a party who makes a motion under this section, including filing an answer, demurrer, or motion to strike constitutes an appearance, unless the court denies the motion made under this section. If the court denies the motion made under this section, the defendant or cross-defendant is not deemed to have generally appeared until entry of the order denying the motion.

(2) If the motion made under this section is denied and the defendant or cross-defendant petitions for a writ of mandate pursuant to subdivision (c), the defendant or cross-defendant is not deemed to have generally appeared until the proceedings on the writ petition have finally concluded.

(3) Failure to make a motion under this section at the time of filing a demurrer or motion to strike constitutes a waiver of the issues of lack of personal jurisdiction, inadequacy of process, inadequacy of service of process, inconvenient forum, and delay in prosecution.
SEC. 2. It is the intent of the Legislature in enacting this act to conform California practice with respect to challenging personal jurisdiction to the practice under Rule 12(b) of the Federal Rules of Civil Procedure.

CHAPTER 70

An act to amend Section 2937 of the Civil Code, relating to debt.

[Approved by Governor June 20, 2002. Filed with Secretary of State June 21, 2002.]

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

SECTION 1. Section 2937 of the Civil Code is amended to read:

2937. (a) The Legislature hereby finds and declares that borrowers or subsequent obligors have the right to know when a person holding a promissory note, bond, or other instrument transfers servicing of the indebtedness secured by a mortgage or deed of trust on real property containing one to four residential units located in this state. The Legislature also finds that notification to the borrower or subsequent obligor of the transfer may protect the borrower or subsequent obligor from fraudulent business practices and may ensure timely payments.

It is the intent of the Legislature in enacting this section to mandate that a borrower or subsequent obligor be given written notice when a person transfers the servicing of the indebtedness on notes, bonds, or other instruments secured by a mortgage or deed of trust on real property containing one to four residential units and located in this state.

(b) Any person transferring the servicing of indebtedness as provided in subdivision (a) to a different servicing agent and any person assuming from another responsibility for servicing the instrument evidencing indebtedness, shall give written notice to the borrower or subsequent obligor before the borrower or subsequent obligor becomes obligated to make payments to a new servicing agent.

(c) In the event a notice of default has been recorded or a judicial foreclosure proceeding has been commenced, the person transferring the servicing of the indebtedness and the person assuming from another the duty of servicing the indebtedness shall give written notice to the trustee or attorney named in the notice of default or judicial foreclosure of the transfer. A notice of default, notice of sale, or judicial foreclosure shall not be invalidated solely because the servicing agent is changed during the foreclosure process.
(d) Any person transferring the servicing of indebtedness as provided in subdivision (a) to a different servicing agent shall provide to the new servicing agent all existing insurance policy information that the person is responsible for maintaining, including, but not limited to, flood and hazard insurance policy information.

(e) The notices required by subdivision (b) shall be sent by first-class mail, postage prepaid, to the borrower’s or subsequent obligor’s address designated for loan payment billings, or if escrow is pending, as provided in the escrow, and shall contain each of the following:
   (1) The name and address of the person to which the transfer of the servicing of the indebtedness is made.
   (2) The date the transfer was or will be completed.
   (3) The address where all payments pursuant to the transfer are to be made.

(f) Any person assuming from another responsibility for servicing the instrument evidencing indebtedness shall include in the notice required by subdivision (b) a statement of the due date of the next payment.

(g) The borrower or subsequent obligor shall not be liable to the holder of the note, bond, or other instrument or to any servicing agent for payments made to the previous servicing agent or for late charges if these payments were made prior to the borrower or subsequent obligor receiving written notice of the transfer as provided by subdivision (e) and the payments were otherwise on time.

(h) For purposes of this section, the term servicing agent shall not include a trustee exercising a power of sale pursuant to a deed of trust.

CHAPTER  71

An act to amend Section 269 of, to add Section 271 to, and to repeal Section 274c of, the Code of Civil Procedure, to amend Section 69950 of, and to repeal Section 72197 of, the Government Code, and to amend Sections 190.9 and 1539 of the Penal Code, relating to court reporting.

[Approved by Governor June 20, 2002. Filed with Secretary of State June 21, 2002.]

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

SECTION 1. Section 269 of the Code of Civil Procedure is amended to read:

269. (a) An official reporter or official reporter pro tempore of the superior court shall take down in shorthand all testimony, objections made, rulings of the court, exceptions taken, arraignments, pleas,
sentences, arguments of the attorneys to the jury, and statements and remarks made and oral instructions given by the judge or other judicial officer, in the following cases:

(1) In a civil case, on the order of the court or at the request of a party.
(2) In a felony case, on the order of the court or at the request of the prosecution, the defendant, or the attorney for the defendant.
(3) In a misdemeanor or infraction case, on the order of the court.

(b) If a transcript is ordered by the court or requested by a party, or if a nonparty requests a transcript that the nonparty is entitled to receive, regardless of whether the nonparty was permitted to attend the proceeding to be transcribed, the official reporter or official reporter pro tempore shall, within a reasonable time after the trial of the case that the court designates, write the transcripts out, or the specific portions thereof as may be requested, in plain and legible longhand, or by typewriter, or other printing machine, and certify that the transcripts were correctly reported and transcribed, and when directed by the court, file the transcripts with the clerk of the court.

(c) If a defendant is convicted of a felony, after a trial on the merits, the record on appeal shall be prepared immediately after the verdict or finding of guilt is announced unless the court determines that it is likely that no appeal from the decision will be made. The court’s determination of a likelihood of appeal shall be based upon standards and rules adopted by the Judicial Council.

SEC. 2. Section 271 is added to the Code of Civil Procedure, to read:

271. (a) Any court, party, or other person entitled to a transcript may request that it be delivered in computer-readable form, except that an original transcript shall be on paper. A copy of the original transcript ordered within 120 days of the filing or delivery of the transcript by the official reporter or official reporter pro tempore shall be delivered in computer-readable form upon request if the proceedings were produced utilizing computer-aided transcription equipment.

(b) Except as modified by standards adopted by the Judicial Council, the computer-readable transcript shall be on disks in standard ASCII code, unless otherwise agreed by the reporter and the court, party, or other person requesting the transcript. Each disk shall be labeled with the case name and court number, the dates of proceedings contained on the disk, and the page and volume numbers of the data contained on the disk. Except where modifications are necessary to reflect corrections of a transcript, each disk as produced by the official reporter shall contain the identical volume divisions, pagination, line numbering, and text of the certified original paper transcript or any portion thereof. Each disk shall be sequentially numbered within the series of disks.

SEC. 3. Section 274c of the Code of Civil Procedure is repealed.

SEC. 4. Section 69950 of the Government Code is amended to read:
69950. (a) The fee for transcription for original ribbon or printed copy is eighty-five cents ($0.85) for each 100 words, and for each copy purchased at the same time by the court, party, or other person purchasing the original, fifteen cents ($0.15) for each 100 words.

(b) The fee for a first copy to any court, party, or other person who does not simultaneously purchase the original shall be twenty cents ($0.20) for each 100 words, and for each additional copy, purchased at the same time, fifteen cents ($0.15) for each 100 words.

SEC. 5. Section 72197 of the Government Code is repealed.

SEC. 6. Section 190.9 of the Penal Code is amended to read:

190.9. (a) (1) In any case in which a death sentence may be imposed, all proceedings conducted in the superior court, including all conferences and proceedings, whether in open court, in conference in the courtroom, or in chambers, shall be conducted on the record with a court reporter present. The court reporter shall prepare and certify a daily transcript of all proceedings commencing with the preliminary hearing. Proceedings prior to the preliminary hearing shall be reported but need not be transcribed until the court receives notice as prescribed in paragraph (2).

(2) Upon receiving notification from the prosecution that the death penalty is being sought, the clerk shall order the transcription and preparation of the record of all proceedings prior to and including the preliminary hearing in the manner prescribed by the Judicial Council in the rules of court. The record of all proceedings prior to and including the preliminary hearing shall be certified by the court no later than 120 days following notification unless the time is extended pursuant to rules of court adopted by the Judicial Council. Upon certification, the record of all proceedings is incorporated into the superior court record.

(b) (1) The court shall assign a court reporter who uses computer-aided transcription equipment to report all proceedings under this section.

(2) Failure to comply with the requirements of this section relating to the assignment of court reporters who use computer-aided transcription equipment is not a ground for reversal.

(c) Any computer-readable transcript produced by court reporters pursuant to this section shall conform to the requirements of Section 271 of the Code of Civil Procedure.

SEC. 7. Section 1539 of the Penal Code is amended to read:

1539. (a) If a special hearing is held in a felony case pursuant to Section 1538.5, or if the grounds on which the warrant was issued are controverted and a motion to return property is made (i) by a defendant on grounds not covered by Section 1538.5, (ii) by a defendant whose property has not been offered or will not be offered as evidence against the defendant, or (iii) by a person who is not a defendant in a criminal
action at the time the hearing is held, the judge or magistrate shall proceed to take testimony in relation thereto, and the testimony of each witness shall be reduced to writing and authenticated by a shorthand reporter in the manner prescribed in Section 869.

(b) The reporter shall forthwith transcribe the reporter’s shorthand notes pursuant to this section if any party to a special hearing in a felony case files a written request for its preparation with the clerk of the court in which the hearing was held. The reporter shall forthwith file in the superior court an original and as many copies thereof as there are defendants (other than a fictitious defendant) or persons aggrieved. The reporter is entitled to compensation in accordance with the provisions of Section 869. In every case in which a transcript is filed as provided in this section, the clerk of the court shall deliver the original of the transcript so filed to the district attorney immediately upon receipt thereof and shall deliver a copy of the transcript to each defendant (other than a fictitious defendant) upon demand without cost to the defendant.

(c) Upon a motion by a defendant pursuant to this chapter, the defendant is entitled to discover any previous application for a search warrant in the case which was refused by a magistrate for lack of probable cause.

SEC. 8. Nothing in this act is intended to change the extent to which official reporter services or electronic reporting may be used in the courts.

CHAPTER 72

An act to amend Sections 912, 917, and 952 of the Evidence Code, relating to electronic communications and evidentiary privileges.

[Approved by Governor June 20, 2002. Filed with Secretary of State June 21, 2002.]

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

SECTION 1. Section 912 of the Evidence Code is amended to read:

912. (a) Except as otherwise provided in this section, the right of any person to claim a privilege provided by Section 954 (lawyer-client privilege), 980 (privilege for confidential marital communications), 994 (physician-patient privilege), 1014 (psychotherapist-patient privilege), 1033 (privilege of penitent), 1034 (privilege of clergyman), 1035.8 (sexual assault victim-counselor privilege), or 1037.5 (domestic violence victim-counselor privilege) is waived with respect to a communication protected by the privilege if any holder of the privilege,
without coercion, has disclosed a significant part of the communication or has consented to disclosure made by anyone. Consent to disclosure is manifested by any statement or other conduct of the holder of the privilege indicating consent to the disclosure, including failure to claim the privilege in any proceeding in which the holder has the legal standing and opportunity to claim the privilege.

(b) Where two or more persons are joint holders of a privilege provided by Section 954 (lawyer-client privilege), 994 (physician-patient privilege), 1014 (psychotherapist-patient privilege), 1035.8 (sexual assault victim-counselor privilege), or 1037.5 (domestic violence victim-counselor privilege), a waiver of the right of a particular joint holder of the privilege to claim the privilege does not affect the right of another joint holder to claim the privilege. In the case of the privilege provided by Section 980 (privilege for confidential marital communications), a waiver of the right of one spouse to claim the privilege does not affect the right of the other spouse to claim the privilege.

(c) A disclosure that is itself privileged is not a waiver of any privilege.

(d) A disclosure in confidence of a communication that is protected by a privilege provided by Section 954 (lawyer-client privilege), 994 (physician-patient privilege), 1014 (psychotherapist-patient privilege), 1035.8 (sexual assault victim-counselor privilege), or 1037.5 (domestic violence victim-counselor privilege), when disclosure is reasonably necessary for the accomplishment of the purpose for which the lawyer, physician, psychotherapist, sexual assault counselor, or domestic violence counselor was consulted, is not a waiver of the privilege.

SEC. 2. Section 917 of the Evidence Code is amended to read:

917. (a) Whenever a privilege is claimed on the ground that the matter sought to be disclosed is a communication made in confidence in the course of the lawyer-client, physician-patient, psychotherapist-patient, cleryman-penitent, husband-wife, sexual assault victim-counselor, or domestic violence victim-counselor relationship, the communication is presumed to have been made in confidence and the opponent of the claim of privilege has the burden of proof to establish that the communication was not confidential.

(b) A communication between persons in a relationship listed in subdivision (a) does not lose its privileged character for the sole reason that it is communicated by electronic means or because persons involved in the delivery, facilitation, or storage of electronic communication may have access to the content of the communication.

(c) For purposes of this section, “electronic” has the same meaning provided in Section 1633.2 of the Civil Code.

SEC. 3. Section 952 of the Evidence Code is amended to read:
952. As used in this article, “confidential communication between client and lawyer” means information transmitted between a client and his or her lawyer in the course of that relationship and in confidence by a means which, so far as the client is aware, discloses the information to no third persons other than those who are present to further the interest of the client in the consultation or those to whom disclosure is reasonably necessary for the transmission of the information or the accomplishment of the purpose for which the lawyer is consulted, and includes a legal opinion formed and the advice given by the lawyer in the course of that relationship.

CHAPTER 73

An act to amend Section 434.5 of the Government Code, relating to display of the American flag.

[Approved by Governor June 24, 2002. Filed with Secretary of State June 24, 2002.]

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

SECTION 1. Section 434.5 of the Government Code is amended to read:

434.5. (a) As used in this section, the following terms have the following meaning:

(1) “Legal right” means the freedom of use and enjoyment generally exercised by owners and occupiers of land.

(2) “Local government agency” means a county, city, whether general law or chartered, city and county, town, municipal corporation, school district or other district, political subdivision, or any board, commission, or agency thereof, or other local agency.

(b) (1) No person, private entity, or governmental agency shall adopt any rule, regulation, or ordinance, or enter into any agreement or covenant, that prevents any person or private entity that would otherwise have the legal right to display a Flag of the United States on private property from exercising that right, unless it is used as, or in conjunction with, an advertising display.

(2) Nothing in this subdivision shall be construed to prevent a city, county, or city and county from imposing reasonable restrictions as to the time, place, and manner of placement or display of a Flag of the United States when necessary for the preservation of the public’s health, safety, or order.
(c) (1) A local government agency may not adopt any policy or regulation that prohibits or restricts an employee of that agency from displaying a Flag of the United States, or a pin of that flag, on his or her person, in his or her workplace, or on a local government agency vehicle operated by that employee.

(2) Nothing in this subdivision shall be construed to prevent a local government agency from imposing reasonable restrictions as to the time, place, and manner of placement or display of a Flag of the United States when necessary for the preservation of the order or discipline of the workplace.

(d) No restrictions solely to promote aesthetic considerations shall be imposed pursuant to paragraph (2) of subdivision (b) or paragraph (2) of subdivision (c).

CHAPTER 74

An act to amend Sections 31468 and 31580.2 of, and to add Sections 31522.5, 31557.3, 31585.2, and 31678.3 to, the Government Code, relating to county employees' retirement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 26, 2002. Filed with Secretary of State June 27, 2002.]

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

SECTION 1. Section 31468 of the Government Code is amended to read:

31468. (a) “District” means a district, formed under the laws of the state, located wholly or partially within the county other than a school district.

(b) “District” also includes any institution operated by two or more counties, in one of which there has been adopted an ordinance placing this chapter in operation.

(c) “District” also includes any organization or association authorized by Chapter 26 of the Statutes of 1935, as amended by Chapter 30 of the Statutes of 1941, or by Section 50024, which organization or association is maintained and supported entirely from funds derived from counties, and the board of any retirement system is authorized to receive the officers and employees of that organization or association into the retirement system managed by the board.
(d) “District” also includes, but is not limited to, any sanitary district formed under Part 1 (commencing with Section 6400) of Division 6 of the Health and Safety Code.

(e) “District” also includes any city, public authority, public agency, and any other political subdivision or public corporation formed or created under the Constitution or laws of this state and located or having jurisdiction wholly or partially within the county.

(f) “District” also includes any nonprofit corporation or association conducting an agricultural fair for the county pursuant to a contract between the corporation or association and the board of supervisors under the authority of Section 25905.

(g) “District” also includes the Regents of the University of California, but with respect only to employees who were employees of a county in a county hospital, who became university employees pursuant to an agreement for transfer to the regents of a county hospital or of the obligation to provide professional medical services at a county hospital, and who under that agreement had the right and did elect to continue membership in the county’s retirement system established under this chapter.

(h) “District” also includes the South Coast Air Quality Management District, a new public agency created on February 1, 1977, pursuant to Chapter 5.5 (commencing with Section 40400) of Part 3 of Division 26 of the Health and Safety Code.

(1) Employees of the South Coast Air Quality Management District shall be deemed to be employees of a new public agency occupying new positions on February 1, 1977. On that date, those new positions are deemed not to have been covered by any retirement system.

(2) No retirement system coverage may be effected for an employee of the South Coast Air Quality Management District who commenced employment with the district during the period commencing on February 1, 1977, and ending on December 31, 1978, unless and until the employee shall have elected whether to become a member of the retirement association established in accordance with this chapter for employees of Los Angeles County or the retirement association established in accordance with this chapter for employees of San Bernardino County. The election shall occur before January 1, 1980. Any employee who fails to make the election provided for herein shall be deemed to have elected to become a member of the retirement association established in accordance with this chapter for the County of Los Angeles.

(3) The South Coast Air Quality Management District shall make application to the retirement associations established in accordance with this chapter for employees of Los Angeles County and San Bernardino
County for coverage of employees of the South Coast Air Quality Management District.

(4) An employee of the South Coast Air Quality Management District who commenced employment with the district during the period commencing on February 1, 1977, and ending on December 31, 1978, and who has not terminated employment before January 1, 1980, shall be covered by the retirement association elected by the employee pursuant to paragraph (2). That coverage shall be effected no later than the first day of the first month following the date of the election provided for in paragraph (2).

(5) Each electing employee shall receive credit for all service with the South Coast Air Quality Management District. However, the elected retirement association may require, as a prerequisite to granting that credit, the payment of an appropriate sum of money or the transfer of funds from another retirement association in an amount determined by an enrolled actuary and approved by the elected retirement association’s board. The amount to be paid shall include all administrative and actuarial costs of making that determination. The amount to be paid shall be shared by the South Coast Air Quality Management District and the employee. The share to be paid by the employee shall be determined by good faith bargaining between the district and the recognized employee organization, but in no event shall the employee be required to contribute more than 25 percent of the total amount required to be paid. The elected retirement association’s board may not grant that credit for that prior service unless the request for that credit is made to, and the required payment deposited with, the elected retirement association’s board no earlier than January 1, 1980, and no later than June 30, 1980. The foregoing shall have no effect on any employee’s rights to reciprocal benefits under Article 15 (commencing with Section 31830).

(6) An employee of the South Coast Air Quality Management District who commenced employment with the district after December 31, 1978, shall be covered by the retirement association established in accordance with this chapter for employees of San Bernardino County. That coverage shall be effected as of the first day of the first month following the employee’s commencement date.

(7) Notwithstanding paragraphs (2) and (4) above, employees of the South Coast Air Quality Management District who were employed between February 1, 1977, and December 31, 1978, and who terminate their employment between February 1, 1977, and January 1, 1980, shall be deemed to be members of the retirement association established in accordance with this chapter for the employees of Los Angeles County commencing on the date of their employment with the South Coast Air Quality Management District.
(i) “District” also includes any nonprofit corporation that operates one or more museums within a county of the 15th class, as described by Sections 28020 and 28036 of the Government Code, as amended by Chapter 1204 of the Statutes of 1971, pursuant to a contract between the corporation and the board of supervisors of the county, and that has entered into an agreement with the board and the county setting forth the terms and conditions of the corporation’s inclusion in the county’s retirement system.

(j) “District” also includes any economic development association funded in whole or in part by a county of the 15th class, as described by Sections 28020 and 28036 of the Government Code, as amended by Chapter 1204 of the Statutes of 1971, and that has entered into an agreement with the board of supervisors and the county setting forth the terms and conditions of the association’s inclusion in the county’s retirement system.

(k) “District” also includes any special commission established in the Counties of Tulare and San Joaquin as described by Section 14087.31 of the Welfare and Institutions Code, pursuant to a contract between the special commission and the county setting forth the terms and conditions of the special commission’s inclusion in the county’s retirement system with the approval of the board of supervisors and the board of retirement.

(l) “District” also includes the retirement system established under this chapter in Orange County.

SEC. 2. Section 31522.5 is added to the Government Code, to read:

31522.5. (a) In a county in which the board of retirement has appointed personnel pursuant to Section 31522.1, the board of retirement may appoint an administrator, an assistant administrator, a chief investment officer, senior management employees next in line of authority to the chief investment officer, subordinate administrators, senior management employees next in line of authority to subordinate administrators, and legal counsel.

(b) Notwithstanding any other provision of law, the personnel appointed pursuant to this section may not be county employees but shall be employees of the retirement system, subject to terms and conditions of employment established by the board of retirement. Except as specifically provided in this subdivision, all other personnel shall be county employees for purposes of the county’s Employee Relations Resolution, or equivalent local rules, and the terms and conditions of employment established by the board of supervisors for county employees, including those set forth in a memorandum of understanding.
(c) The compensation of personnel appointed pursuant to this section shall be an expense of administration of the retirement system, pursuant to Section 31580.2.

(d) The board of retirement and board of supervisors may enter into any agreements as may be necessary and appropriate to carry out the provisions of this section.

(e) Section 31522.2 is not applicable to any retirement system that elects to appoint personnel pursuant to this section.

(f) This section shall apply only in Orange County.

SEC. 3. Section 31557.3 is added to the Government Code, to read:

31557.3. On the date a district, as defined in subdivision (l) of Section 31468, is included in the retirement system, any personnel appointed pursuant to Section 31522.5 who had previously been in county service shall continue to be members of the system without interruption in service or loss of credit. Thereafter, each person entering employment with the district shall become a member of the system on the first day of the calendar month following his or her entrance into service.

SEC. 4. Section 31580.2 of the Government Code is amended to read:

31580.2. In counties in which the board of retirement, or the board of retirement and the board of investment, have appointed personnel pursuant to Section 31522.1 or 31522.5, or both, the respective board or boards shall annually adopt a budget covering the entire expense of administration of the retirement system which expense shall be charged against the earnings of the retirement fund. The expense incurred in any year may not exceed eighteen-hundredths of 1 percent of the total assets of the retirement system.

SEC. 5. Section 31585.2 is added to the Government Code, to read:

31585.2. On and after the date a district, as defined in subdivision (l) of Section 31468, is included in the retirement system, the district’s appropriations and transfers of funds made pursuant to Section 31585 shall be legal charges against the funds of the district and shall be part of the expense of administration of the retirement system pursuant to Section 31580.2.

SEC. 6. Section 31678.3 is added to the Government Code, to read:

31678.3. (a) Notwithstanding any other provision of this chapter, a resolution adopted by a board of supervisors to make any formula for calculation of retirement benefits described in this section applicable to the employees of the county does not apply to make that formula applicable to the employees of any district within the county. The governing body of a district may elect, by resolution adopted by majority vote, to make any formula for calculation of retirement benefits described in this section applicable to the employees of the district
irrespective of whether the board of supervisors has made that election with respect to employees of the county.

(b) Notwithstanding any other provision of this chapter, the board of supervisors or the governing body of a district may, by resolution adopted by majority vote, pursuant to a memorandum of understanding made under the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 2), do any or all of the following:

(1) Apply Section 31621.8, 31676.17, 31676.18, or 31676.19 for the calculation of retirement benefits for general members to the employees in a bargaining unit comprised of general members.

(2) Apply Section 31664.1 for the calculation of retirement benefits for safety members to the employees in a bargaining unit comprised of safety members.

(3) Apply Section 31664 for the calculation of retirement benefits for safety members to the employees of the Probation Services Unit and the Probation Supervisory Management Unit.

(c) Any nonrepresented employees within similar job classifications as employees in a bargaining unit described in subdivision (b) or supervisors and managers thereof shall be subject to the same formula for the calculation of retirement benefits applicable to the employees in that bargaining unit.

(d) A resolution adopted pursuant to subdivision (b) may require members to pay a portion of the contributions attributable to past service liability, that would have been required if the benefits specified in the resolution, as adopted by the board of supervisors or the governing body of the district, had been in effect during the period of time designated in the resolution. Any payments required of represented employees shall first be approved in a memorandum of understanding made under the Meyers-Milias-Brown Act and executed by the board of supervisors or the governing body of the district and the employee representatives. The contributions paid by a member pursuant to this subdivision shall become part of the accumulated contributions of the member.

(e) This section shall only be applicable to members who retire on or after the effective date of the resolution described in subdivision (b).

(f) The board of supervisors or the governing body of a district may not unilaterally implement a retirement formula for any of its bargaining units.

(g) This section shall apply only in Orange County.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:
In order to ensure that contracts negotiated and agreed to between Orange County and county employees become operative, it is necessary that this act take effect immediately.

CHAPTER 75

An act to amend Section 90 of, to repeal and add Section 91 of, and to repeal Sections 92, 93, 94, 95, 96, 97, 98, 99, 100, and 101 of, the Lake Cuyamaca Recreation and Park District Act (Chapter 1654 of the Statutes of 1961), relating to parks and recreation.

[Approved by Governor June 26, 2002. Filed with Secretary of State June 27, 2002.]

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

SECTION 1. Section 90 of the Lake Cuyamaca Recreation and Park District Act (Chapter 1654 of the Statutes of 1961) is amended to read:

Sec. 90. The district may acquire all necessary and proper lands and facilities, or any portion thereof, by means of a plan to borrow money or by purchase on contract. The amount of indebtedness to be incurred shall not exceed an amount equal to the anticipated revenue for a two-year period, and shall be repaid in approximately equal annual installments during a period not to exceed 10 years from the date on which it is incurred. An indebtedness shall bear interest at a rate that is less than or equal to the rate permitted under Article 7 (commencing with Section 53530) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code. Each obligation shall be authorized by a resolution adopted by the affirmative votes of at least four-fifths of the members of the district board and shall be evidenced by a promissory note or contract approved by at least four-fifths of the members of the district board. The indebtedness authorized to be incurred by this section shall be in addition to, and this section shall not apply to, any bonded indebtedness authorized by vote of the electors.

SEC. 2. Section 91 of the Lake Cuyamaca Recreation and Park District Act (Chapter 1654 of the Statutes of 1961) is repealed.

SEC. 3. Section 91 is added to the Lake Cuyamaca Recreation and Park District Act (Chapter 1654 of the Statutes of 1961), to read:

Sec. 91. If the district board elects to incur general obligation bonded indebtedness for the acquisition or improvement of real property or for the funding or refunding of any outstanding indebtedness, the district board shall proceed under Article 11 (commencing with Section 5790) of Chapter 4 of Division 5 of the Public Resources Code.
SEC. 4. Section 92 of the Lake Cuyamaca Recreation and Park District Act (Chapter 1654 of the Statutes of 1961) is repealed.
SEC. 5. Section 93 of the Lake Cuyamaca Recreation and Park District Act (Chapter 1654 of the Statutes of 1961) is repealed.
SEC. 6. Section 94 of the Lake Cuyamaca Recreation and Park District Act (Chapter 1654 of the Statutes of 1961) is repealed.
SEC. 7. Section 95 of the Lake Cuyamaca Recreation and Park District Act (Chapter 1654 of the Statutes of 1961) is repealed.
SEC. 8. Section 96 of the Lake Cuyamaca Recreation and Park District Act (Chapter 1654 of the Statutes of 1961) is repealed.
SEC. 9. Section 97 of the Lake Cuyamaca Recreation and Park District Act (Chapter 1654 of the Statutes of 1961) is repealed.
SEC. 10. Section 98 of the Lake Cuyamaca Recreation and Park District Act (Chapter 1654 of the Statutes of 1961) is repealed.
SEC. 11. Section 99 of the Lake Cuyamaca Recreation and Park District Act (Chapter 1654 of the Statutes of 1961) is repealed.
SEC. 12. Section 100 of the Lake Cuyamaca Recreation and Park District Act (Chapter 1654 of the Statutes of 1961) is repealed.
SEC. 13. Section 101 of the Lake Cuyamaca Recreation and Park District Act (Chapter 1654 of the Statutes of 1961) is repealed.

CHAPTER 76

An act to amend Section 5791.1 of the Public Resources Code, relating to public resources.

[Approved by Governor June 26, 2002. Filed with Secretary of State June 27, 2002.]

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

SECTION 1. Section 5791.1 of the Public Resources Code is amended to read:

5791.1. (a) At the hearing, the board of directors shall hear and consider any protests to the formation of the zone. If, at the conclusion of the hearing, the board of directors determines either (1) that more than 50 percent of the total number of voters residing within the proposed zone have filed written objections to the formation or (2) that property owners who own more than 50 percent of the assessed value of all taxable property in the proposed zone have filed written objections to the formation, then the board of directors shall terminate the proceedings. If the board of directors determines that the written objections have been
filed by 50 percent or less of those voters or property owners, then the board of directors may proceed to form the zone.

(b) If the resolution or petition proposes that the zone use special taxes, benefit assessments, fees, or general obligation bonds to finance its purposes, the board of directors shall proceed according to law. If the voters or property owners do not approve those funding methods, the zone shall not be formed.

### CHAPTER 77

An act to amend Item 5180-151-0001 of Section 2.00 of the Budget Act of 2001, relating to public social services, and making an appropriation therefor, to take effect immediately as an appropriation for the usual current expenses of the state.

[Approved by Governor June 28, 2002. Filed with Secretary of State June 30, 2002.]

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

SECTION 1. Item 5180-151-0001 of Section 2.00 of Chapter 106 of the Statutes of 2001 is amended to read:

5180–151–0001—For local assistance, Department of Social Services

<table>
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<td>(1) 25.25–Children’s Services</td>
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<td>(a) 25.25.010–Child Welfare Services</td>
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<td>(b) 25.25.020–Adoptions</td>
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<td>(c) 25.25.030–Child Abuse Prevention</td>
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(b) 25.35.020—
  Access Assistance for the Deaf . . . . . . 5,804,000
(c) 25.35.030—
  Maternity Care . . . . . . . . . . . . . . . 600,000
(d) 25.35.040—
  Refugee Assistance Services . . . . . . . 19,343,000
(e) 25.35.050—
  County Services Block Grant . . . . . . . 91,526,000

(3) 25.45–Community Care Licensing . . . . . . . . . . . 16,310,000
(4) Reimbursements . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . −57,772,000
(5) Amount payable from the Child Health and Safety Fund (Item 5180–151–0279) . . . . . . . . . . . . . . . . . −432,000
(6) Amount payable from the Federal Trust Fund (Item 5180–151–0890) . . . . . . . . . . . . . . . . . . . . . . . −1,136,142,000

Provisions:
1. Provision 1 of Item 5180–101–0001 also applies to this item.
2. Notwithstanding Chapter 1 (commencing with Section 18000) of Part 6 of Division 9 of the Welfare and Institutions Code, a loan not to exceed $50,000,000 shall be made available from the General Fund from funds not otherwise appropriated, to cover the federal share of costs of a program(s) when the federal funds have not been received by this state prior to the usual time for transmitting that federal share to the counties of this state. That loan from the General Fund shall be repaid when the federal share of costs for the program(s) becomes available.
3. The Department of Finance may authorize the establishment of positions and transfer of amounts from this item to Item 5180–001–0001, in order to allow the state to perform the facilities evaluation function of Community Care Licensing in the event the counties fail to perform that function.
4. The Department of Finance may authorize the transfer of amounts between this item and Item 5180–111–0001 in order to reflect modifications in the use of Title XX funds. The funds shall not be approved sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or such lesser time as the chairpersons of the committees, or their designees, may in each instance jointly determine.

5. Nonfederal funds appropriated in this item which have been budgeted to meet the state’s Temporary Assistance for Needy Families maintenance–of–effort requirement established pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104–193) may not be expended in any way that would cause their disqualification as a federally allowable maintenance–of–effort expenditure.

6. Of the amount appropriated in this item, $123,834,000 shall be provided to counties to fund additional child welfare service activities and shall be allocated based on child welfare services caseload and county unit costs. However no county shall receive less than $100,000. These funds shall be expressly targeted for emergency response, family reunification, family maintenance and permanent placement services and shall be used to supplement, and shall not be used to supplant, child welfare services funds. A county is not required to provide a match of the funds received pursuant to this provision if the county appropriates the required full match for the county’s child welfare services program exclusive of the funds received pursuant to this provision. These funds are available only to counties that have certified that they are fully utilizing the Child Welfare Services/Case Management System (CSW/CMS) or have entered into an agreed upon plan with the State Department of Social Services outlining the steps that will be taken to achieve full utilization. The department shall reallocate any funds that counties choose not to accept under this provision, to other counties based on the allocation formula specified in this provision.

The department, in collaboration with the County Welfare Directors Association and representatives
from labor groups representing social workers, shall develop the definition of full utilization of the CWS/CMS, the method for measuring full utilization, the process for the state and counties to work together to move counties toward full utilization, and measurements of progress toward full utilization.

7. In order to receive state funding for adult protective service programs, counties shall participate in the quarterly claims processing, payment, and reporting system developed by the State Department of Social Services for the adult protective services program.

8. Of the amount appropriated in this item, $1,200,000 shall be provided to counties for the purpose of maintaining and operating Live Scan equipment in county welfare departments. The counties shall utilize this equipment to perform criminal background checks of relatives, foster parents, and others for whom criminal record checks are required when the county is considering a foster child placement. The State Department of Social Services shall allocate these funds to the counties to enable the most efficient use of the equipment. Counties shall not be required to provide a match for these funds if the funds are used exclusively for the maintenance and operation of Live Scan equipment in the Foster Care Program.

9. The Department of Finance may authorize the establishment of positions and transfer of amounts from this item to Item 5180–001–0001, in order to allow the state to perform the adoptions function in the event that a county notifies the State Department of Social Services that it intends to cease performing that function.

10. Of the funds appropriated in this item, $1,500,000 shall be for the pilot of the Internet based Health and Education Passport in the County of Los Angeles, to collect and maintain health and education records for children in the foster care system, as required by Section 16010 of the Welfare and Institutions Code. Of this amount, the Department of Finance may transfer up to $500,000 to Item 5180–001–0001 for support of the State Department of Social Services, to provide technical assistance in preparation of the Advance Planning Document, provide Independent Verification and Validation to ensure SACWIS compliance, and to ensure that the project meets
federal and state guidelines and privacy requirements.

11. Of the funds appropriated in this item, $1,877,831 shall be used to pay the county share of costs for case management activities for the Emergency Assistance Program pursuant to Section 15204.25 of the Welfare and Institutions Code.

SEC. 2. This act makes an appropriation for the usual current expenses of the state within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 78

An act to amend Section 35400 of the Vehicle Code, relating to vehicles.

[Approved by Governor June 28, 2002. Filed with Secretary of State June 30, 2002.]

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

SECTION 1. Section 35400 of the Vehicle Code is amended to read:

35400. (a) No vehicle shall exceed a length of 40 feet.

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

1. A vehicle used in a combination of vehicles when the excess length is caused by auxiliary parts, equipment, or machinery not used as space to carry any part of the load, except that the combination of vehicles shall not exceed the length provided for combination vehicles.

2. A vehicle, when the excess length is caused by any parts necessary to comply with the fender and mudguard regulations of this code.

3. (A) An articulated bus or articulated trolley coach that does not exceed a length of 60 feet.

(B) An articulated bus or articulated trolley coach described in subparagraph (A) may be equipped with a folding device attached to the front of the bus or trolley if the device is designed and used exclusively for transporting bicycles. The device, including any bicycles transported thereon, shall be mounted in a manner that does not materially affect efficiency or visibility of vehicle safety equipment, and shall not extend more than 36 inches from the front body of the bus or trolley coach when fully deployed. The handlebars of a bicycle that is transported on a device described in this subparagraph shall not extend more than 42 inches from the front of the bus.

4. A semitrailer while being towed by a motortruck or truck tractor, if the distance from the kingpin to the rearmost axle of the semitrailer
does not exceed 40 feet for semitrailers having two or more axles, or 38 feet for semitrailers having one axle if the semitrailer does not, exclusive of attachments, extend forward of the rear of the cab of the motortruck or truck tractor.

(5) A bus or house car when the excess length is caused by the projection of a front safety bumper or a rear safety bumper, or both. The safety bumper shall not cause the length of the vehicle to exceed the maximum legal limit by more than one foot in the front and one foot in the rear. For the purposes of this chapter, “safety bumper” means any device that is fitted on an existing bumper or which replaces the bumper and is constructed, treated, or manufactured to absorb energy upon impact.

(6) A schoolbus, when the excess length is caused by the projection of a crossing control arm. For the purposes of this chapter, “crossing control arm” means an extendable and retractable device fitted to the front of a schoolbus that is designed to impede movement of pupils exiting the schoolbus directly in front of the schoolbus so that pupils are visible to the driver while they are moving in front of the schoolbus. An operator of a schoolbus shall not extend a crossing control arm while the schoolbus is in motion. Except when activated, a crossing control arm shall not cause the maximum length of the schoolbus to be extended by more than 10 inches, inclusive of any front safety bumper. Use of a crossing control arm by the operator of a schoolbus does not, in and of itself, fulfill his or her responsibility to ensure the safety of students crossing a highway or private road pursuant to Section 22112.

(7) A bus, when the excess length is caused by a device, located in front of the front axle, for lifting wheelchairs into the bus. That device shall not cause the length of the bus to be extended by more than 18 inches, inclusive of any front safety bumper.

(8) A bus, when the excess length is caused by a device attached to the rear of the bus designed and used exclusively for the transporting of bicycles. This device may be up to 10 feet in length, if the device, along with any other device permitted pursuant to this section, does not cause the total length of the bus, including any device or load, to exceed 50 feet.

(9) A bus operated by a public agency or a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, used in transit system service, other than a schoolbus, when the excess length is caused by a folding device attached to the front of the bus which is designed and used exclusively for transporting bicycles. The device, including any bicycles transported thereon, shall be mounted in a manner that does not materially affect efficiency or visibility of vehicle safety equipment, and shall not extend more than 36 inches from the front body of the bus when fully deployed. The handlebars of a bicycle that is transported on a device described in this paragraph shall not
extend more than 42 inches from the front of the bus. A device described in this paragraph may not be used on any bus which, exclusive of the device, exceeds 40 feet in length or on any bus having a device attached to the rear of the bus pursuant to paragraph (7).

(10) A bus of a length of up to 45 feet when operating on those highways specified in subdivision (a) of Section 35401.5. The Department of Transportation or local authorities, with respect to highways under their respective jurisdictions, shall not deny reasonable access to a bus of a length of up to 45 feet between the highways specified in subdivision (a) of Section 35401.5 and points of loading and unloading for motor carriers of passengers as required by the federal Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240).

(11) (A) A house car of a length of up to 45 feet when operating on the National System of Interstate and Defense Highways or when using those portions of federal aid primary system highways that have been qualified by the United States Secretary of Transportation for that use, or when using routes appropriately identified by the Department of Transportation or local authorities, with respect to highways under their respective jurisdictions.

(B) A house car described in subparagraph (A) may be operated on a highway that provides reasonable access to facilities for purposes limited to fuel, food, and lodging when that access is consistent with the safe operation of the vehicle and when the facility is within one road mile of identified points of ingress and egress to or from highways specified in subparagraph (A) for use by that vehicle.

(C) As used in this paragraph and paragraph (10), “reasonable access” means access substantially similar to that authorized for combinations of vehicles pursuant to subdivision (c) of Section 35401.5.

(D) Any access route established by a local authority pursuant to subdivision (d) of Section 35401.5 is open for access by a house car of a length of up to 45 feet. In addition, local authorities may establish a process whereby access to services by house cars of a length of up to 45 feet may be applied for upon a route not previously established as an access route. The denial of a request for access to services shall be only on the basis of safety and an engineering analysis of the proposed access route. In lieu of processing an access application, local authorities, with respect to highways under their jurisdiction, may provide signing, mapping, or a listing of highways, as necessary, to indicate the use of these specific routes by a house car of a length of up to 45 feet.

(c) The Legislature, by increasing the maximum permissible kingpin to rearmost axle distance to 40 feet effective January 1, 1987, as provided in paragraph (4) of subdivision (b), does not intend this action to be
considered a precedent for any future increases in truck size and length limitations.

(d) Any transit bus equipped with a folding device installed on or after January 1, 1999, that is permitted under subparagraph (B) of paragraph (3) of subdivision (b) or under paragraph (9) of subdivision (b) shall be additionally equipped with any of the following:

(1) An indicator light that is visible to the driver and is activated whenever the folding device is in an extended position.

(2) Any other device or mechanism that provides notice to the driver that the folding device is in an extended position.

(3) A mechanism that causes the folding device to retract automatically from an extended position.

(e) (1) No person shall improperly or unsafely mount a bicycle on a device described in subparagraph (B) of paragraph (3) of subdivision (b), or in paragraph (9) of subdivision (b).

(2) Notwithstanding subdivision (a) of Section 23114 or subdivision (a) of Section 24002 or any other provision of law, when a bicycle is improperly or unsafely loaded by a passenger onto a transit bus, the passenger, and not the driver, is liable for any violation of this code that is attributable to the improper or unlawful loading of the bicycle.

CHAPTER 79

An act to add Section 4730.66 to the Health and Safety Code, relating to sanitation districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 28, 2002. Filed with Secretary of State June 30, 2002.]

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

SECTION 1. Section 4730.66 is added to the Health and Safety Code, to read:

4730.66. (a) This section applies only to the consolidated sanitation district in Orange County described in Section 4730.65. The powers granted in this section supplement the existing powers of the district.

(b) The district may acquire, construct, operate, maintain, and furnish facilities for all or any of the following purposes:

(1) The diversion of urban runoff from drainage courses within the district.
(2) The treatment of the urban runoff.
(3) The return of the water to the drainage courses.
(4) The beneficial use of the water.
(c) In order to carry out the powers and purposes granted under this section, the district may exercise any of the powers otherwise granted to a district by this chapter to the extent those powers may be made applicable.
(d) Nothing in this section affects any obligation of the district to obtain a permit that may be required by law for the activities undertaken pursuant to this section.

SEC. 2. The Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution due to the unique circumstances of the consolidated sanitation district in Orange County.

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 timely provide authority to the Orange County Sanitation District to effectively deal with the urban water runoff problem, it is necessary that this act take effect immediately.

CHAPTER 80

An act to add Section 4467 to the Vehicle Code, relating to vehicles.

[Approved by Governor June 28, 2002. Filed with Secretary of State June 30, 2002.]

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

SECTION 1. Section 4467 is added to the Vehicle Code, to read:
4467. (a) Notwithstanding any other provision of law, the department shall issue new and different license plates immediately upon request to the registered owner of a vehicle who appears in person and submits a completed application, if all of the following are presented:
(1) Proof of ownership of the vehicle that is acceptable to the department.
(2) A driver’s license or identification card containing a picture of the licensee or cardholder issued to the registered owner by the department pursuant to Chapter 1 (commencing with Section 12500) of Division 6.
The department shall conduct a search of its records to verify the authenticity of any document submitted under this paragraph.

(3) The previously issued license plates from the vehicle.

(4) One of the following:

(A) A copy of a police report identifying the registered owner of the vehicle as the victim of an incident of domestic violence.

(B) A written acknowledgment, dated within 30 days of submission, on the letterhead of a domestic violence agency, that the registered owner is actively seeking assistance or has sought assistance from the agency within the past year.

(C) An active protective order as defined in Section 6218 of the Family Code, or issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, which names the registered owner as a protected party.

(b) Subdivision (a) shall not apply to special interest license plates.

CHAPTER 81

An act to amend Section 87164 of the Education Code, relating to community colleges.

[Approved by Governor June 28, 2002. Filed with Secretary of State June 30, 2002.]

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

SECTION 1. Section 87164 of the Education Code is amended to read:

87164. (a) An employee or applicant for employment with a public school employer who files a written complaint with his or her supervisor, a community college administrator, or the public school employer alleging actual or attempted acts of reprisal, retaliation, threats, coercion, or similar improper acts prohibited by Section 87163 for having disclosed improper governmental activities or for refusing to obey an illegal order may also file a copy of the written complaint with the local law enforcement agency, together with a sworn statement that the contents of the written complaint are true, or are believed by the affiant to be true, under penalty of perjury. The complaint filed with the local law enforcement agency shall be filed within 12 months of the most recent act of reprisal that is the subject of the complaint.

(b) A person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against an employee or applicant for employment with a public school employer for having made a protected
disclosure is subject to a fine not to exceed ten thousand dollars ($10,000) and imprisonment in the county jail for a period not to exceed one year. An employee, officer, or administrator who intentionally engages in that conduct shall also be subject to discipline by the public school employer. If no adverse action is instituted by the public school employer, and it is determined that there is reasonable cause to believe that an act of reprisal, retaliation, threats, coercion, or similar acts prohibited by Section 87163, the local law enforcement agency may report the nature and details of the activity to the governing board of the community college district.

(c) (1) The State Personnel Board shall initiate a hearing or investigation of a written complaint of reprisal or retaliation as prohibited by Section 87163 within 10 working days of its submission. The executive officer of the State Personnel Board shall complete findings of the hearing or investigation within 60 working days thereafter, and shall provide a copy of the findings to the complaining employee or applicant for employment with a public school employer and to the appropriate supervisors, administrator, or employer. This hearing shall be conducted in accordance with Section 18671.2 of the Government Code, this part, and the rules of practice and procedure of the State Personnel Board. When the allegations contained in a complaint of reprisal or retaliation are the same as, or similar to, those contained in another appeal, the executive officer may consolidate the appeals into the most appropriate format. In these cases, the time limits described in this paragraph shall not apply.

(2) Notwithstanding Section 18671.2 of the Government Code, no costs associated with hearings of the State Personnel Board conducted pursuant to paragraph (1) shall be charged to the board of governors. Instead, all of the costs associated with hearings of the State Personnel Board conducted pursuant to paragraph (1) shall be charged directly to the community college district that employs the complaining employee, or with whom the complaining applicant for employment has filed his or her employment application.

(d) If the findings of the executive officer of the State Personnel Board set forth acts of alleged misconduct by the supervisor, community college administrator, or public school employer, the supervisor, administrator, or employer may request a hearing before the State Personnel Board regarding the findings of the executive officer. The request for hearing and any subsequent determination by the board shall be made in accordance with the board’s usual rules governing appeals, hearings, investigations, and disciplinary proceedings.

(e) If, after the hearing, the State Personnel Board determines that a violation of Section 87163 occurred, or if no hearing is requested and the findings of the executive officer conclude that improper activity has
occurred, the board may order any appropriate relief, including, but not limited to, reinstatement, back pay, restoration of lost service credit if appropriate, and the expungement of any adverse records of the employee or applicant for employment with a public school employer who was the subject of the alleged acts of misconduct prohibited by Section 87163.

(f) Whenever the State Personnel Board determines that a supervisor, community college administrator, or public school employer has violated Section 87163, it shall cause an entry to that effect to be made in the supervisor’s, community college administrator’s, or public school employer’s official personnel records.

(g) In order for the Governor and the Legislature to determine the need to continue or modify personnel procedures as they relate to the investigations of reprisals or retaliation for the disclosure of information by employees, the State Personnel Board, by June 30 of each year, shall submit a report to the Governor and the Legislature regarding complaints filed, hearings held, and legal actions taken pursuant to this section.

(h) In addition to all other penalties provided by law, a person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against an employee or applicant for employment with a public school employer for having made a protected disclosure shall be liable in an action for damages brought against him or her by the injured party. Punitive damages may be awarded by the court where the acts of the offending party are proven to be malicious. Where liability has been established, the injured party shall also be entitled to reasonable attorney’s fees as provided by law. However, an action for damages shall not be available to the injured party unless the injured party has first filed a complaint with the local law enforcement agency. Nothing in this subdivision requires an injured party to file a complaint with the State Personnel Board prior to seeking relief for damages in a court of law.

(i) This section is not intended to prevent a public school employer, school administrator, or supervisor from taking, failing to take, directing others to take, recommending, or approving a personnel action with respect to an employee or applicant for employment with a public school employer if the public school employer, school administrator, or supervisor reasonably believes an action or inaction is justified on the basis of evidence separate and apart from the fact that the person has made a protected disclosure as defined in subdivision (e) of Section 87162.

(j) In any civil action or administrative proceeding, once it has been demonstrated by a preponderance of evidence that an activity protected by this article was a contributing factor in the alleged retaliation against a former, current, or prospective employee, the burden of proof shall be on the supervisor, school administrator, or public school employer to
demonstrate by clear and convincing evidence that the alleged action would have occurred for legitimate, independent reasons even if the employee had not engaged in protected disclosures or refused an illegal order. If the supervisor, school administrator, or public school employer fails to meet this burden of proof in an adverse action against the employee in any administrative review, challenge, or adjudication in which retaliation has been demonstrated to be a contributing factor, the employee shall have a complete affirmative defense in the adverse action.

(k) Nothing in this article shall be deemed to diminish the rights, privileges, or remedies of an employee under any other federal or state law or under an employment contract or collective bargaining agreement.

(l) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action.

CHAPTER 82

An act to amend Section 25210.9c of the Government Code, relating to county service areas, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 28, 2002. Filed with Secretary of State June 30, 2002.]

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

SECTION 1. Section 25210.9c of the Government Code is amended to read:

25210.9c. (a) Pursuant to a resolution adopted by a four-fifths vote of all the members of its board of supervisors, a county may appropriate any of its available moneys to a revolving fund not to exceed one million dollars ($1,000,000) to be used for the acquisition of real or personal property, environmental impact studies, fiscal analysis, engineering services, salaries, wages, services, supplies, or the construction of structures or improvements needed in whole or in part to provide one or more extended services to a county service area located wholly within the county. The revolving fund shall be reimbursed from service fees, connection charges, tax revenues, or other moneys available from the service area, and no sums shall be disbursed from the fund until the board
has, by resolution, established the method by and the term, not exceeding 10 years, within which the county service area is to reimburse the fund. The service area shall reimburse the fund for any amount disbursed to the service area within 10 years after disbursement, together with interest at the current rate per annum received on similar types of investments by the county as determined by the county treasurer.

(b) Notwithstanding subdivision (a), the Board of Supervisors of the County of Santa Barbara or the County of Tulare may disburse money from the revolving fund to county service areas without complying with the requirement for reimbursement.

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 County of Tulare to meet the financial needs of county service areas at the earliest possible time, it is necessary for this act to take effect immediately as an urgency statute.

CHAPTER  83

An act to amend Section 53635 of the Government Code, relating to local agency funds.

[Approved by Governor June 28, 2002. Filed with Secretary of State June 30, 2002.]

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

SECTION 1. Section 53635 of the Government Code is amended to read:

53635. (a) This section shall apply to a local agency that is a county, a city and a county, or other local agency that pools money in deposits or investments with other local agencies, including local agencies that have the same governing body. However, Section 53601 shall apply to all local agencies that pool money in deposits or investments exclusively with local agencies that have the same governing body.

This section shall be interpreted in a manner that recognizes the distinct characteristics of investment pools and the distinct administrative burdens on managing and investing funds on a pooled basis pursuant to Article 6 (commencing with Section 27130) of Chapter 5 of Division 2 of Title 3.

A local agency that is a county or a city and county may invest in commercial paper pursuant to subdivision (g) of Section 53601, except
that the local agency shall be subject to the following concentration limits:

(1) No more than 40 percent of the local agency’s money may be invested in eligible commercial paper.

(2) No more than 10 percent of the local agency’s money that may be invested pursuant to this section may be invested in the outstanding commercial paper of any single corporate issuer.

(3) No more than 10 percent of the outstanding commercial paper of any single corporate issuer may be purchased by the local agency.

(b) Notwithstanding Section 53601, the City of Los Angeles shall be subject to the concentration limits of this section for counties and cities and counties with regard to the investment of money in eligible commercial paper.

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution because of the unique circumstances of the City of Los Angeles. The facts constituting the special circumstances are:

The investment needs of the City of Los Angeles are such that it is more appropriate to apply the concentration limits otherwise applicable to counties and cities and counties.

CHAPTER 84

An act to amend Section 12114 of the Insurance Code, relating to insurance.

[Approved by Governor June 28, 2002. Filed with Secretary of State June 30, 2002.]

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

SECTION 1. Section 12114 of the Insurance Code is amended to read:

12114. (a) At least 95 percent of a financial guaranty insurance corporation’s outstanding total net liability on the kinds of obligations enumerated in subparagraphs (A), (B), and (C) of paragraph (1) of subdivision (b) of Section 12112 shall be investment grade.

(b) The financial guaranty insurance corporation shall at all times maintain capital, surplus, and contingency reserve in the aggregate no less than the sum of the following:

(1) 0.3333 percent of the total net liability under guaranties of municipal bonds and utility first mortgage obligations.
(2) 0.6666 percent of the total net liability under guaranties of investment grade asset-backed securities.
(3) 1.0 percent of the total net liability under guaranties, secured by collateral or having a term of seven years or less of:
   (A) Investment grade industrial development bonds, and
   (B) Other investment grade obligations.
(4) 1.5 percent of the total net liability under guaranties of other investment grade obligations.
(5) 2.0 percent of the total net liability under guaranties of:
   (A) Noninvestment grade consumer debt obligations, and
   (B) Noninvestment grade asset-backed securities.
(6) 3.0 percent of the total net liability under guaranties of noninvestment grade obligations secured by first mortgages on commercial real estate and having loan-to-value ratios of 80 percent or less.
(7) 5.0 percent of the total net liability under guaranties of other noninvestment grade obligations.
(8) If the amount of collateral required by paragraph (3) of subdivision (b) is no longer maintained, that proportion of the obligation insured which is not so collateralized shall be subject to the aggregate limits specified in paragraph (4) of subdivision (b).
(9) Additional surplus determined by the commissioner to be adequate to support the writing of surety insurance if the financial guaranty insurance corporation has been admitted to transact surety insurance as authorized by subdivision (a) of Section 12102.

CHAPTER 85
An act to amend Sections 87474, 87601, and 87661 of the Education Code, relating to community colleges.

[Approved by Governor June 28, 2002. Filed with Secretary of State June 30, 2002.]

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

SECTION 1. Section 87474 of the Education Code is amended to read:
87474. (a) Nothing in this code shall be construed as permitting a faculty member to acquire regular classification with respect to employment in either of the following:
(1) A summer term maintained by a community college district.
(2) An intersession term maintained by a community college district, if the exclusion of the intersession term is in accordance with a collective bargaining agreement applicable to that employee.

(b) Service in connection with the employment referenced in subdivision (a) shall not be included in computing the service required as a prerequisite to attainment of, or eligibility for, classification as a regular employee of the district.

(c) The Legislature finds and declares that this section does not constitute a change in, but is declaratory of, the preexisting law.

SEC. 2. Section 87601 of the Education Code is amended to read:

87601. For the purposes of this article:

(a) "Academic year" means that period between the first day of a fall semester or quarter and the last day of the following spring semester or quarter, excluding any intersession term that has been excluded pursuant to an applicable collective bargaining agreement.

(b) "Contract employee" means an employee of a district who is employed on the basis of a contract in accordance with Section 87605, subdivision (b) of Section 87608, or subdivision (b) of Section 87608.5.

(c) "District" means a community college district.

(d) "Positions requiring certification qualifications" are those positions which provide the services for which certifications have been established in this code.

(e) "Regular employee" means an employee of a district who is employed in accordance with subdivision (c) of Section 87608, subdivision (c) of Section 87608.5, or Section 87609.

SEC. 3. Section 87661 of the Education Code is amended to read:

87661. For the purposes of this article:

(a) "Academic year" means that period between the first day of a fall semester or quarter and the last day of the following spring semester or quarter, excluding any intersession term that has been excluded pursuant to an applicable collective bargaining agreement.

(b) "Contract employee" or "probationary employee" means an employee of a district who is employed on the basis of a contract in accordance with Section 87605, subdivision (b) of Section 87608, or subdivision (b) of Section 87608.5.

(c) "District" means a community college district.

(d) "Regular employee" or "tenured employee" means an employee of a district who is employed in accordance with subdivision (c) of Section 87608, subdivision (c) of Section 87608.5, or Section 87609.
An act to amend, repeal, and add Sections 10153.4 and 10170.5 of the Business and Professions Code, relating to real estate.

[Approved by Governor June 28, 2002. Filed with Secretary of State June 30, 2002.]

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

SECTION 1. Section 10153.4 of the Business and Professions Code is amended to read:

10153.4. (a) Every person who is required to comply with Section 10153.3 to obtain an original real estate salesperson license shall, prior to the issuance of the license, or within 18 months after issuance, submit evidence, satisfactory to the commissioner, of successful completion, at an accredited institution, of two of the courses listed in Section 10153.2, other than real estate principles, advanced legal aspects of real estate, advanced real estate finance, or advanced real estate appraisal.

(b) A salesperson who qualifies for a license pursuant to this section shall not be required for the first license renewal thereafter to complete the continuing education pursuant to Article 2.5 (commencing with Section 10170), except for the courses specified in paragraphs (1) to (4), inclusive, of subdivision (a) of Section 10170.5.

(c) The salesperson license issued to an applicant who has satisfied only the requirements of Section 10153.3 at the time of issuance shall be automatically suspended effective 18 months after issuance if the licensee has failed to satisfy subdivision (a). The suspension shall not be lifted until the suspended licensee has submitted the required evidence of course completion and the commissioner has given written notice to the licensee of the lifting of the suspension.

(d) The original license issued to a salesperson shall clearly set forth the conditions of the license and shall be accompanied by a notice of the provisions of this section and of any regulations adopted by the commissioner to implement this section.

(e) The commissioner shall waive the requirements of this section for any person who presents evidence of admission to the State Bar of California, and the commissioner shall waive the requirement for any course for which an applicant has completed an equivalent course of study as determined under Section 10153.5.

(f) This section shall remain in effect only until July 1, 2003, and as of January 1, 2004, is repealed, unless a later enacted statute that is enacted before July 1, 2003, deletes or extends the dates on which it becomes inoperative and is repealed.
SEC. 2. Section 10153.4 is added to the Business and Professions Code, to read:

10153.4. (a) Every person who is required to comply with Section 10153.3 to obtain an original real estate salesperson license shall, prior to the issuance of the license, or within 18 months after issuance, submit evidence, satisfactory to the commissioner, of successful completion, at an accredited institution, of a course in real estate practices and one of the courses listed in Section 10153.2, other than real estate principles, advanced legal aspects of real estate, advanced real estate finance, or advanced real estate appraisal.

(b) A salesperson who qualifies for a license pursuant to this section shall not be required for the first license renewal thereafter to complete the continuing education pursuant to Article 2.5 (commencing with Section 10170), except for the courses specified in paragraphs (1) to (4), inclusive, of subdivision (a) of Section 10170.5.

(c) The salesperson license issued to an applicant who has satisfied only the requirements of Section 10153.3 at the time of issuance shall be automatically suspended effective 18 months after issuance if the licensee has failed to satisfy subdivision (a). The suspension shall not be lifted until the suspended licensee has submitted the required evidence of course completion and the commissioner has given written notice to the licensee of the lifting of the suspension.

(d) The original license issued to a salesperson shall clearly set forth the conditions of the license and shall be accompanied by a notice of the provisions of this section and of any regulations adopted by the commissioner to implement this section.

(e) The commissioner shall waive the requirements of this section for any person who presents evidence of admission to the State Bar of California, and the commissioner shall waive the requirement for any course for which an applicant has completed an equivalent course of study as determined under Section 10153.5.

(f) This section shall become operative July 1, 2003.

SEC. 3. Section 10170.5 of the Business and Professions Code is amended to read:

10170.5. (a) Except as otherwise provided in Sections 10153.4 and 10170.8, no real estate license shall be renewed unless the commissioner finds that the applicant for license renewal has, during the four-year period preceding the renewal application, successfully completed the 45 clock hours of education provided for in Section 10170.4, including all of the following:

1. A three-hour course in ethics, professional conduct, and legal aspects of real estate, which shall include, but not be limited to, relevant legislation, regulations, articles, reports, studies, court decisions, treatises, and information of current interest.
(2) A three-hour course in agency relationships and duties in a real estate brokerage practice, including instruction in the disclosures to be made and the confidences to be kept in the various agency relationships between licensees and the parties to real estate transactions.

(3) A three-hour course in trust fund accounting and handling.

(4) A three-hour course in fair housing.

(5) Not less than 18 clock hours of courses or programs related to consumer protection, and designated by the commissioner as satisfying this purpose in his or her approval of the offering of these courses or programs, which shall include, but not be limited to, forms of real estate financing relevant to serving consumers in the marketplace; land use regulation and control; pertinent consumer disclosures; agency relationships; capital formation for real estate development; fair practices in real estate; appraisal and valuation techniques; landlord-tenant relationships; energy conservation; environmental regulation and consideration; taxation as it relates to consumer decisions in real estate transactions; probate and similar disposition of real property; governmental programs such as revenue bond activities, redevelopment, and related programs; business opportunities; and mineral, oil, and gas conveyancing.

(6) Other courses and programs that will enable a licensee to achieve a high level of competence in serving the objectives of consumers who may engage the services of licensees to secure the transfer, financing, or similar objectives with respect to real property, including organizational and management techniques that will significantly contribute to this goal.

(b) Except as otherwise provided in Section 10170.8, no real estate license shall be renewed for a licensee who already has renewed under subdivision (a), unless the commissioner finds that the applicant for license renewal has, during the four-year period preceding the renewal application, successfully completed the 45 clock hours of education provided for in Section 10170.4, including a six-hour update survey course that covers the subject areas specified in paragraphs (1) to (4), inclusive, of subdivision (a).

(c) Any denial of a license pursuant to this section shall be subject to Section 10100.

(d) This section shall remain in effect only until July 1, 2003, and as of January 1, 2004, is repealed, unless a later enacted statute that is enacted before July 1, 2003, deletes or extends the dates on which it becomes inoperative or is repealed.

SEC. 4. Section 10170.5 is added to the Business and Professions Code, to read:

10170.5. (a) Except as otherwise provided in Sections 10153.4 and 10170.8, no real estate license shall be renewed unless the commissioner
finds that the applicant for license renewal has, during the four-year period preceding the renewal application, successfully completed the 45 clock hours of education provided for in Section 10170.4, including all of the following:

(1) A three-hour course in ethics, professional conduct, and legal aspects of real estate, which shall include, but not be limited to, relevant legislation, regulations, articles, reports, studies, court decisions, treatises, and information of current interest.

(2) A three-hour course in agency relationships and duties in a real estate brokerage practice, including instruction in the disclosures to be made and the confidences to be kept in the various agency relationships between licensees and the parties to real estate transactions.

(3) A three-hour course in trust fund accounting and handling.

(4) A three-hour course in fair housing.

(5) Not less than 18 clock hours of courses or programs related to consumer protection, and designated by the commissioner as satisfying this purpose in his or her approval of the offering of these courses or programs, which shall include, but not be limited to, forms of real estate financing relevant to serving consumers in the marketplace; land use regulation and control; pertinent consumer disclosures; agency relationships; capital formation for real estate development; fair practices in real estate; appraisal and valuation techniques; landlord-tenant relationships; energy conservation; environmental regulation and consideration; taxation as it relates to consumer decisions in real estate transactions; probate and similar disposition of real property; governmental programs such as revenue bond activities, redevelopment, and related programs; business opportunities; and mineral, oil, and gas conveyancing.

(6) Other courses and programs that will enable a licensee to achieve a high level of competence in serving the objectives of consumers who may engage the services of licensees to secure the transfer, financing, or similar objectives with respect to real property, including organizational and management techniques that will significantly contribute to this goal.

(b) Except as otherwise provided in Section 10170.8, no real estate license shall be renewed for a licensee who already has renewed under subdivision (a), unless the commissioner finds that the applicant for license renewal has, during the four-year period preceding the renewal application, successfully completed the 45 clock hours of education provided for in Section 10170.4, including a six-hour update survey course that covers the subject areas specified in paragraphs (1) to (4), inclusive, of subdivision (a).

(c) Any denial of a license pursuant to this section shall be subject to section 10100.
(d) For purposes of this section, “successful completion” of a course described in paragraphs (1) to (4), inclusive, of subdivision (a) means the passing of a final examination.

(e) This section shall become operative on July 1, 2003.

CHAPTER 87

An act to amend Sections 2054 and 2474 of the Business and Professions Code, relating to podiatry.

[Approved by Governor June 28, 2002. Filed with Secretary of State June 30, 2002.]

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

SECTION 1. Section 2054 of the Business and Professions Code is amended to read:

2054. (a) Any person who uses in any sign, business card, or letterhead, or, in an advertisement, the words “doctor” or “physician,” the letters or prefix “Dr.,” the initials “M.D.,” or any other terms or letters indicating or implying that he or she is a physician and surgeon, physician, surgeon, or practitioner under the terms of this or any other law, or that he or she is entitled to practice hereunder, or who represents or holds himself or herself out as a physician and surgeon, physician, surgeon, or practitioner under the terms of this or any other law, without having at the time of so doing a valid, unrevoked, and unsuspended certificate as a physician and surgeon under this chapter, is guilty of a misdemeanor.

(b) A holder of a valid, unrevoked, and unsuspended certificate to practice podiatric medicine may use the phrases “doctor of podiatric medicine,” “doctor of podiatry,” and “podiatric doctor,” or the initials “D.P.M.,” and shall not be in violation of subdivision (a).

SEC. 2. Section 2474 of the Business and Professions Code is amended to read:

2474. Any person who uses in any sign or in any advertisement or otherwise, the word or words “doctor of podiatric medicine,” “doctor of podiatry,” “podiatric doctor,” “D.P.M.,” “podiatrist,” “foot specialist,” or any other term or terms or any letters indicating or implying that he or she is a podiatrist, or that he or she practices podiatric medicine, or holds himself out as practicing podiatric medicine or foot correction as defined in Section 2472, without having at the time of so
doing a valid, unrevoked, and unsuspended certificate as provided for in this chapter, is guilty of a misdemeanor.

CHAPTER 88

An act to amend Sections 81450.5 and 81452 of the Education Code, relating to community colleges.

[Approved by Governor June 28, 2002. Filed with Secretary of State June 30, 2002.]

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

SECTION 1. Section 81450.5 of the Education Code is amended to read:

81450.5. Notwithstanding Sections 81450 and 81452, a community college district may, without providing the notice required by Section 81450, exchange for value, sell for cash, or donate any personal property belonging to the district if all of the following criteria are met:

(a) The district determines that the property is not required for school purposes, that it should be disposed of for the purpose of replacement, or that it is unsatisfactory or not suitable for school use.

(b) The property is exchanged with, or sold or donated to, a school district, community college district, or other public entity that has had an opportunity to examine the property proposed to be exchanged, sold, or donated.

(c) The receipt of the property by a school district or community college district would not be inconsistent with any applicable districtwide or schoolsite technology plan of the recipient district.

SEC. 2. Section 81452 of the Education Code is amended to read:

81452. (a) If the governing board, by a unanimous vote of those members present, finds that the property, whether one or more items, does not exceed in value the sum of five thousand dollars ($5,000), the property may be sold at private sale without advertising, by any employee of the district empowered for that purpose by the board.

(b) Any item or items of property having previously been offered for sale pursuant to Section 81450, but for which no qualified bid was received, may be sold at private sale without advertising by any employee of the district empowered for that purpose by the board.

(c) If the board, by a unanimous vote of those members present, finds that the property is of insufficient value to defray the costs of arranging a sale, the property may be donated to a charitable organization deemed appropriate by the board, or it may be disposed of in the local public
dump on order of any employee of the district empowered for that purpose by the board.

CHAPTER 89

An act relating to victims of crime.

[Approved by Governor June 28, 2002. Filed with Secretary of State June 30, 2002.]

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

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

(a) Victims of violent crime are a special needs population requiring timely, coordinated responses to their physical and mental injuries.

(b) Current services for victims of violent crime are fragmented and not easily accessed on a statewide basis.

(c) Victims of crime should receive seamless, integrated responses and high quality service delivery as a critical part of the justice system.

SEC. 2. (a) No later than January 1, 2004, the Secretary of the State and Consumer Services Agency shall submit a report to the Legislature that shall include all of the following:

(1) A review of the location, effectiveness, and appropriateness of services for victims of crime in the state in comparison to services in other states, federal standards outlined in publications of the federal Office for Victim Services, and comprehensive programs for services to crime victims.

(2) An examination of, and recommendations on revisions to, state law germane to crime victim services, with the goal of improving and integrating the services.

(3) A survey of existing training for providers of services to crime victims to identify gaps or inadequacies.

(4) A review of expenditures and revenues, including out-year projections of the cost of current services, and recommendations for increased services and revenues.

(5) An exploration of a variety of funding options to ensure seamless, integrated service delivery.

(b) The secretary may convene, a task force comprising representatives of public and private agencies, business, media, criminal justice systems, education, human service providers, medical service
providers, insurance providers, communities of faith, funding sources, and victims, to advise him or her on the report described in this section.

CHAPTER  90

An act to amend Section 19613.05 of the Business and Professions Code, relating to horse racing.

[Approved by Governor June 28, 2002. Filed with Secretary of State June 30, 2002.]

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

SECTION 1. Section 19613.05 of the Business and Professions Code is amended to read:

19613.05. (a) Any association, including a fair, that conducts thoroughbred racing shall pay to the owners’ organization, contracting with the association with respect to the conduct of thoroughbred racing, an additional 1 3/4 percent of the portion required by Section 19613 for a national marketing program. These funds shall be used exclusively for the promotion of thoroughbred racing in conjunction with a national thoroughbred racing marketing program. Funds that may not be needed for this effort shall be returned to the purse pool at the racing associations where these funds were raised in direct proportion to the amount in which they were initially raised. The owners’ organization shall file a report with the board and the respective Committees on Governmental Organization of the Senate and Assembly, accounting for the receipt and expenditure of these funds on an annual basis. The board of directors of the owners’ organization shall have the discretion to select the national marketing organization that shall be the recipient of these funds. If the board of directors of the owners’ organization decides at any time not to contribute to the national marketing organization, notice shall be given promptly to the respective racing association or associations and the 1 3/4 percent deduction shall cease until the owners’ organization decides otherwise.

(b) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.
CHAPTER 91

An act to amend Section 35294.6 of the Education Code, relating to school safety.

[Approved by Governor June 28, 2002. Filed with Secretary of State June 30, 2002.]

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

SECTION 1. Section 35294.6 of the Education Code is amended to read:

35294.6. (a) Each school shall adopt its comprehensive school safety plan by March 1, 2000, and shall review and update its plan by March 1, every year thereafter. A new school campus that begins offering classes to pupils after March 1, 2001, shall adopt a comprehensive school safety plan within one year of initiating operation, and shall review and update its plan by March 1, every year thereafter.

(b) Commencing in July 2000, and every July thereafter, each school shall report on the status of its school safety plan, including a description of its key elements in the annual school accountability report card prepared pursuant to Sections 33126 and 35256.

CHAPTER 92

An act to add Section 11440.45 to the Government Code, relating to evidence.

[Approved by Governor June 28, 2002. Filed with Secretary of State June 30, 2002.]

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

SECTION 1. Section 11440.45 is added to the Government Code, to read:

11440.45. (a) In any proceedings pursuant to this chapter or Chapter 5 (commencing with Section 11500), the portion of statements, writings, or benevolent gestures expressing sympathy or a general sense of benevolence relating to the pain, suffering, or death of a person involved in an accident and made to that person or to the family of that person shall be inadmissible as evidence of an admission of liability. A statement of fault, however, which is part of, or in addition to, any of the above shall not be inadmissible pursuant to this section.

(b) For purposes of this section:
“Accident” means an occurrence resulting in injury or death to one or more persons which is not the result of willful action by a party.

“Benevolent gestures” means actions which convey a sense of compassion or commiseration emanating from humane impulses.

“Family” means the spouse, parent, grandparent, stepmother, stepfather, child, grandchild, brother, sister, half brother, half sister, adopted children of parent, or spouse’s parents of an injured party.

CHAPTER 93

An act to amend Section 129050 of the Health and Safety Code, relating to health facilities.

[Approved by Governor June 28, 2002. Filed with Secretary of State June 30, 2002.]

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

SECTION 1. Section 129050 of the Health and Safety Code is amended to read:

129050. A loan shall be eligible for insurance under this chapter if all of the following conditions are met:

(a) The loan shall be secured by a first mortgage, first deed of trust, or other first priority lien on a fee interest of the borrower or by a leasehold interest of the borrower having a term of at least 20 years, including options to renew for that duration, longer than the term of the insured loan. The security for the loan shall be subject only to those conditions, covenants and restrictions, easements, taxes, and assessments of record approved by the office, and other liens securing debt insured under this chapter. The office may require additional agreements in security of the loan.

(b) The borrower obtains an American Land Title Association title insurance policy with the office designated as beneficiary, with liability equal to the amount of the loan insured under this chapter, and with additional endorsements that the office may reasonably require.

(c) The proceeds of the loan shall be used exclusively for the construction, improvement, or expansion of the health facility, as approved by the office under Section 129020. However, loans insured pursuant to this chapter may include loans to refinance another prior loan, whether or not state insured and without regard to the date of the prior loan, if the office determines that the prior loan would have been eligible for insurance under this chapter at the time it was made. The
office may not insure a loan for a health facility that the office determines is not needed pursuant to subdivision (k).

(d) The loan shall have a maturity date not exceeding 30 years from the date of the beginning of amortization of the loan, except as authorized by subdivision (e), or 75 percent of the office’s estimate of the economic life of the health facility, whichever is the lesser.

(e) The loan shall contain complete amortization provisions requiring periodic payments by the borrower not in excess of its reasonable ability to pay as determined by the office. The office shall permit a reasonable period of time during which the first payment to amortization may be waived on agreement by the lender and borrower. The office may, however, waive the amortization requirements of this subdivision and of subdivision (g) of this section when a term loan would be in the borrower’s best interest.

(f) The loan shall bear interest on the amount of the principal obligation outstanding at any time at a rate, as negotiated by the borrower and lender, as the office finds necessary to meet the loan money market. As used in this chapter, “interest” does not include premium charges for insurance and service charges if any. Where a loan is evidenced by a bond issue of a political subdivision, the interest thereon may be at any rate the bonds may legally bear.

(g) The loan shall provide for the application of the borrower’s periodic payments to amortization of the principal of the loan.

(h) The loan shall contain those terms and provisions with respect to insurance, repairs, alterations, payment of taxes and assessments, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters the office may in its discretion prescribe.

(i) The loan shall have a principal obligation not in excess of an amount equal to 90 percent of the total construction cost.

(j) The borrower shall offer reasonable assurance that the services of the health facility will be made available to all persons residing or employed in the area served by the facility.

(k) The office has determined that the facility is needed by the community to provide the specified services. In making this determination, the office shall do all of the following:

1. Require the applicant to describe the community needs the facility will meet and provide data and information to substantiate the stated needs.

2. Require the applicant, if appropriate, to demonstrate participation in the community needs assessment required by Section 127350.

3. Survey appropriate local officials and organizations to measure perceived needs and verify the applicant’s needs assessment.
(4) Use any additional available data relating to existing facilities in the community and their capacity.

(5) Contact other state and federal departments that provide funding for the programs proposed by the applicant to obtain those departments’ perspectives regarding the need for the facility. Additionally, the office shall evaluate the potential effect of proposed health care reimbursement changes on the facility’s financial feasibility.

(6) Consider the facility’s consistency with the Cal-Mortgage state plan.

(l) In the case of acquisitions, a project loan shall be guaranteed only for transactions not in excess of the fair market value of the acquisition.

Fair market value shall be determined, for purposes of this subdivision, pursuant to the following procedure, that shall be utilized during the office’s review of a loan guarantee application:

(1) Completion of a property appraisal by an appraisal firm qualified to make appraisals, as determined by the office, before closing a loan on the project.

(2) Evaluation of the appraisal in conjunction with the book value of the acquisition by the office. When acquisitions involve additional construction, the office shall evaluate the proposed construction to determine that the costs are reasonable for the type of construction proposed. In those cases where this procedure reveals that the cost of acquisition exceeds the current value of a facility, including improvements, then the acquisition cost shall be deemed in excess of fair market value.

(m) Notwithstanding subdivision (i), any loan in the amount of five million dollars ($5,000,000) or less may be insured up to 95 percent of the total construction cost.

In determining financial feasibility of projects of counties pursuant to this section, the office shall take into consideration any assistance for the project to be provided under Section 14085.5 of the Welfare and Institutions Code or from other sources. It is the intent of the Legislature that the office endeavor to assist counties in whatever ways are possible to arrange loans that will meet the requirements for insurance prescribed by this section.

(n) The project’s level of financial risk meets the criteria in Section 129051.

CHAPTER 94

An act to amend Section 41325 of the Education Code, to amend Section 59125 of, to repeal Sections 43739 and 53761 of, and to repeal
The people of the State of California do enact as follows:

SECTION 1. Section 41325 of the Education Code is amended to read:

41325. (a) The Legislature finds and declares that when a school district becomes insolvent and requires an emergency apportionment from the state in the amount designated in this article, it is necessary that the Superintendent of Public Instruction assume control of the district in order to ensure the district’s return to fiscal solvency.

(b) It is the intent of the Legislature that the Superintendent of Public Instruction, operating through an appointed administrator, do all of the following:

1. Implement substantial changes in the district’s fiscal policies and practices, including, if necessary, the filing of a petition under Chapter 9 of the federal Bankruptcy Code for the adjustment of indebtedness.

2. Revise the district’s educational program to reflect realistic income projections, in response to the dramatic effect of the changes in fiscal policies and practices upon educational program quality and the potential for the success of all pupils.

3. Encourage all members of the school community to accept a fair share of the burden of the district’s fiscal recovery.

4. Consult, for the purposes described in this subdivision, with the school district governing board, the exclusive representatives of the employees of the district, parents, and the community.

5. Consult with and seek recommendations from the county superintendent of schools for the purposes described in this subdivision.

SEC. 2. Section 43739 of the Government Code is repealed.

SEC. 3. Section 53760 of the Government Code is repealed.

SEC. 4. Section 53760 is added to the Government Code, to read:

53760. (a) Except as otherwise provided by statute, a local public entity in this state may file a petition and exercise powers pursuant to applicable federal bankruptcy law.

(b) As used in this section, “local public entity” means any county, city, district, public authority, public agency, or other entity, without limitation, that is a “municipality,” as defined in paragraph (40) of Section 101 of Title 11 of the United States Code (bankruptcy), or that qualifies as a debtor under any other federal bankruptcy law applicable to local public entities.

SEC. 5. Section 53761 of the Government Code is repealed.
SEC. 6. Section 59125 of the Government Code is amended to read:

59125. A legislative body authorized to conduct a proceeding pursuant to this chapter may file a petition and exercise powers under applicable federal bankruptcy law as provided by Section 53760.

SEC. 7. Section 24767 of the Water Code is amended to read:

24767. An agreement or plan may not be carried out pursuant to this article until a proposal therefor is approved by the voters, and a plan may not be carried out until it is either:

(a) Agreed to in writing by all of the holders of bonds and warrants affected.
(b) Confirmed in accordance with federal bankruptcy law.

SEC. 8. Section 25115 of the Water Code is amended to read:

25115. The approval of the holders of outstanding refunding bonds affected by the modification shall be evidenced by either of the following:

(a) The written consent of all of the owners and holders of the bonds.
(b) An order under federal bankruptcy law that is binding upon the holders and owners of all of the outstanding refunding bonds affected.

CHAPTER  95

An act relating to the payment of claims against the State of California, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 28, 2002. Filed with Secretary of State June 30, 2002.]

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

SECTION 1. (a) The sum of one million four hundred fifty-seven thousand seven hundred fifty-six dollars and nine cents ($1,457,756.09) is hereby appropriated from the various funds, as specified in subdivision (b), to the Executive Officer of the California Victim Compensation and Government Claims Board for the payment of claims accepted by the board in accordance with the schedule set forth in subdivision (b). Those payments shall be made from the funds and accounts identified in that schedule. In the case of Budget Act item schedules identified in the schedule set forth in subdivision (b), those payments shall be made from the funds appropriated in the item schedule.
(b) Pursuant to subdivision (a), claims accepted by the California Victim Compensation and Government Claims Board shall be paid in accordance with the following schedule:

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Total for Fund: Public Employees’ Health
  Care Fund (0822)  $746.57
Total for Fund: Public Employees’
  Retirement Fund (0830)  $204.00
Total for Fund: Restitution Fund (0214)  $2,234.52
Total for Fund: Retail Sales Tax Fund (0094)  $13,415.00
Total for Fund: State Highway Account (0042)  $646.00
Total for Fund: Tax Relief and Refund
  Account (0027)  $856,603.29
Total for Fund: Transportation Revolving
  Account (0048)  $250.75
Total for Fund: Unemployment
  Compensation Disability Fund (0588)  $3,260.23
Total for Fund: Unemployment Fund (0871)  $8,051.50
Total for Fund: Underground Storage Tank
  Cleanup Fund (0439)  $7,521.45
Total for Fund: Welfare Advance Fund (0696)  $3,194.29

SEC. 2. This act is an urgency statute necessary for the immediate
preservation of the public peace, health, or safety within the meaning of
Article IV of the Constitution and shall go into immediate effect. The
facts constituting the necessity are:
In order to pay claims against the state and end hardship to claimants
as quickly as possible, it is necessary for this act to take effect
immediately.
CHAPTER 96

An act to amend and repeal Section 1347 of the Penal Code, relating to child witnesses.

[Approved by Governor June 28, 2002. Filed with Secretary of State June 30, 2002.]

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

SECTION 1. Section 1347 of the Penal Code, as amended by Section 1 of Chapter 207 of the Statutes of 2000, is amended to read:

1347. (a) It is the intent of the Legislature in enacting this section to provide the court with discretion to employ unusual court procedures to protect the rights of a child witness, the rights of the defendant, and the integrity of the judicial process. In exercising its discretion, the court necessarily will be required to balance the rights of the defendant or defendants against the need to protect a child witness and to preserve the integrity of the court's truthfinding function. This discretion is intended to be used selectively when the facts and circumstances in the individual case present compelling evidence of the need to use these unusual procedures.

(b) Notwithstanding any other law, the court in any criminal proceeding, upon written notice by the prosecutor made at least three days prior to the date of the preliminary hearing or trial date on which the testimony of the minor is scheduled, or during the course of the proceeding on the court's own motion, may order that the testimony of a minor 13 years of age or younger at the time of the motion be taken by contemporaneous examination and cross-examination in another place and out of the presence of the judge, jury, defendant or defendants, and attorneys, and communicated to the courtroom by means of closed-circuit television, if the court makes all of the following findings:

(1) The minor's testimony will involve a recitation of the facts of either of the following:

(A) An alleged sexual offense committed on or with the minor.
(B) The minor is a victim of a violent felony, as defined in subdivision (c) of Section 667.5.

(2) The impact on the minor of one or more of the factors enumerated in subparagraphs (A) to (D), inclusive, is shown by clear and convincing evidence to be so substantial as to make the minor unavailable as a witness unless closed-circuit television is used.

(A) Threats of serious bodily injury to be inflicted on the minor or a family member, of incarceration or deportation of the minor or a family member, or of removal of the minor from the family or dissolution of the family, in order to prevent or dissuade the minor from attending or giving
testimony at any trial or court proceeding, or to prevent the minor from reporting the alleged sexual offense or from assisting in criminal prosecution.

(B) Use of a firearm or any other deadly weapon during the commission of the crime.

(C) Infliction of great bodily injury upon the victim during the commission of the crime.

(D) Conduct on the part of the defendant or defense counsel during the hearing or trial that causes the minor to be unable to continue his or her testimony.

In making the determination required by this section, the court shall consider the age of the minor, the relationship between the minor and the defendant or defendants, any handicap or disability of the minor, and the nature of the acts charged. The minor’s refusal to testify shall not alone constitute sufficient evidence that the special procedure described in this section is necessary to obtain the minor’s testimony.

(3) The equipment available for use of closed-circuit television would accurately communicate the image and demeanor of the minor to the judge, jury, defendant or defendants, and attorneys.

(c) If the court orders the use of closed-circuit television, two-way closed-circuit television shall be used, except that if the impact on the minor of one or more of the factors enumerated in subparagraphs (A) to (D), inclusive, of paragraph (2) of subdivision (b), is shown by clear and convincing evidence to be so substantial as to make the minor unavailable as a witness even if two-way closed-circuit television is used, one-way closed-circuit television may be used. The prosecution shall give the defendant or defendants at least 30 days written notice of the prosecution’s intent to seek the use of one-way closed-circuit television, unless good cause is shown to the court why this 30-day notice requirement should not apply.

(d) (1) The hearing on a motion brought pursuant to this section shall be conducted out of the presence of the jury.

(2) Notwithstanding Section 804 of the Evidence Code or any other law, the court, in determining the merits of the motion, shall not compel the minor to testify at the hearing; nor shall the court deny the motion on the ground that the minor has not testified.

(3) In determining whether the impact on an individual child of one or more of the four factors enumerated in paragraph (2) of subdivision (b) is so substantial that the minor is unavailable as a witness unless two-way or one-way closed-circuit television is used, the court may question the minor in chambers, or at some other comfortable place other than the courtroom, on the record for a reasonable period of time with the support person, the prosecutor, and defense counsel present. The defendant or defendants shall not be present. The court shall conduct the
questioning of the minor and shall not permit the prosecutor or defense
counsel to examine the minor. The prosecutor and defense counsel shall
be permitted to submit proposed questions to the court prior to the
session in chambers. Defense counsel shall be afforded a reasonable
opportunity to consult with the defendant or defendants prior to the
conclusion of the session in chambers.

(e) When the court orders the testimony of a minor to be taken in
another place outside of the courtroom, the court shall do all of the
following:

(1) Make a brief statement on the record, outside of the presence of
the jury, of the reasons in support of its order. While the statement need
not include traditional findings of fact, the reasons shall be set forth with
sufficient specificity to permit meaningful review and to demonstrate
that discretion was exercised in a careful, reasonable, and equitable
manner.

(2) Instruct the members of the jury that they are to draw no inferences
from the use of closed-circuit television as a means of facilitating the
testimony of the minor.

(3) Instruct respective counsel, outside of the presence of the jury, that
they are to make no comment during the course of the trial on the use of
closed-circuit television procedures.

(4) Instruct the support witness, outside of the presence of the jury,
that he or she is not to coach, cue, or in any way influence or attempt to
influence the testimony of the minor.

(5) Order that a complete record of the examination of the minor,
including the images and voices of all persons who in any way
participate in the examination, be made and preserved on videotape in
addition to being stenographically recorded. The videotape shall be
transmitted to the clerk of the court in which the action is pending and
shall be made available for viewing to the prosecuting attorney, the
defendant or defendants, and his or her attorney during ordinary business
hours. The videotape shall be destroyed after five years have elapsed
from the date of entry of judgment. If an appeal is filed, the tape shall not
be destroyed until a final judgment on appeal has been ordered. Any
videotape that is taken pursuant to this section is subject to a protective
order of the court for the purpose of protecting the privacy of the witness.
This subdivision does not affect the provisions of subdivision (b) of
Section 868.7.

(f) When the court orders the testimony of a minor to be taken in
another place outside the courtroom, only the minor, a support person
designated pursuant to Section 868.5, a nonuniformed bailiff, and, after
consultation with the prosecution and the defense, a representative
appointed by the court, shall be physically present for the testimony. A
videotape shall record the image of the minor and his or her testimony, and a separate videotape shall record the image of the support person.

(g) When the court orders the testimony of a minor to be taken in another place outside the courtroom, the minor shall be brought into the judge’s chambers prior to the taking of his or her testimony to meet for a reasonable period of time with the judge, the prosecutor, and defense counsel. A support person for the minor shall also be present. This meeting shall be for the purpose of explaining the court process to the child and to allow the attorneys an opportunity to establish rapport with the child to facilitate later questioning by closed-circuit television. No participant shall discuss the defendant or defendants or any of the facts of the case with the minor during this meeting.

(h) When the court orders the testimony of a minor to be taken in another place outside the courtroom, nothing in this section prohibits the court from ordering the minor to be brought into the courtroom for a limited purpose, including the identification of the defendant or defendants as the court deems necessary.

(i) The examination shall be under oath, and the defendant or defendants shall be able to see and hear the minor witness and if two-way closed-circuit television is used, the defendant’s image shall be transmitted live to the witness.

(j) Nothing in this section affects the disqualification of witnesses pursuant to Section 701 of the Evidence Code.

(k) The cost of examination by contemporaneous closed-circuit television ordered pursuant to this section shall be borne by the court out of its existing budget.

SEC. 2. Section 1347 of the Penal Code, as amended by Section 2 of Chapter 207 of the Statutes of 2000, is repealed.

CHAPTER 97

An act to amend Section 25372 of the Government Code, relating to county property.

[Approved by Governor June 28, 2002. Filed with Secretary of State June 30, 2002.]

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

SECTION 1. Section 25372 of the Government Code is amended to read:

25372. (a) Except as restricted by any conditions by which the county acquired the property, the board of supervisors may donate or
lease any real or personal property that the board declares to be surplus to any public agency or organization exempt from taxation listed in subdivision (b). The board may impose on the donation or lease any terms and conditions that it determines to be appropriate.

(b) This section applies to all of the following:

1. An organization exempt from taxation pursuant to 26 U.S.C. Sec. 501(c)(3) that is organized for the care, teaching, or training of children or developmentally disabled children.

2. An organization exempt from taxation pursuant to 26 U.S.C. Sec. 501(c)(3) that is organized for the care, teaching, or training of Native Americans.

3. A school district or community college district.


5. An organization exempt from taxation pursuant to 26 U.S.C. Sec. 501(c)(3) that is organized to provide health or human services.

CHAPTER  98

An act to amend Sections 18001.8 and 18012.5 of, and to add Section 18015.1 to, the Health and Safety Code, relating to commercial coaches.

[Approved by Governor June 28, 2002. Filed with Secretary of State June 30, 2002.]

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

SECTION 1. Section 18001.8 of the Health and Safety Code is amended to read:

18001.8. “Commercial modular” means a structure transportable in one or more sections, designed and equipped for human occupancy for industrial, professional, or commercial purposes, which is required to be moved under permit, and shall include a trailer coach as defined in Section 635 of the Vehicle Code. “Commercial coach” has the same meaning as “commercial modular” as that term is defined in this section.

SEC. 2. Section 18012.5 of the Health and Safety Code is amended to read:

18012.5. “Special purpose commercial modular” means a vehicle with or without motive power, designed and equipped for human occupancy for industrial, professional, or commercial purposes, which is not required to be moved under permit, and shall include a trailer
coach. “Special purpose commercial coach” has the same meaning as “special purpose commercial modular” as that term is defined in this section.

SEC. 3. Section 18015.1 is added to the Health and Safety Code, to read:

18015.1. All statutory references to “commercial coach” and to “special purpose commercial coach” are hereby deemed to refer to “commercial modular” and to “special purpose commercial modular,” respectively.

CHAPTER 99

An act making appropriations to amend and supplement the Budget Act of 2001, relating to appropriations for the support of the government of the State of California, to take effect immediately as an appropriation for the usual and current expenses of the state.

[Approved by Governor June 30, 2002. Filed with Secretary of State June 30, 2002.]

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

SECTION 1. (a) The sum of one billion seven hundred ninety-six million five hundred ninety-one thousand dollars ($1,796,591,000), from amounts appropriated pursuant to Section 2.00 of the Budget Act of 2001 as identified in subdivision (b), is hereby reappropriated to the Trustees of the California State University for the 2001–02 fiscal year in augmentation of Item 6610-001-0001 of Section 2.00 of the Budget Act of 2001. This reappropriation is subject to subdivision (a) of Section 2.00 of the Budget Act of 2001 (Chapter 106 of the Statutes of 2001).

(b) The reappropriation in subdivision (a) is made from the following sums, as appropriated in Section 2.00 of the Budget Act of 2001:

(1) Three million eight hundred thirty-one thousand dollars ($3,831,000) from Schedule (1) of Item 6110-111-0001.

(2) Seventy-six million dollars ($76,000,000) from Item 6110-112-0001.

(3) Sixty-five million six hundred forty-three thousand dollars ($65,643,000) from Schedule (4) of Item 6110-113-0001.

(4) Four hundred sixty-two thousand dollars ($462,000) from Schedule (1) of Item 6110-116-0001.

(5) Three million five hundred thirteen thousand dollars ($3,513,000) from Schedule (2) of Item 6110-116-0001.
(6) One hundred forty-four million three hundred thousand dollars ($144,300,000) from Schedule (2) of Item 6110-123-0001, as amended by Chapter 1 of the Statutes of 2002, Third Extraordinary Session.

(7) Twenty million dollars ($20,000,000) from Schedule (3) of Item 6110-123-0001, as amended by Chapter 1 of the Statutes of 2002, Third Extraordinary Session.

(8) Seven hundred thirteen million three hundred sixty thousand dollars ($713,360,000) from Item 6110-132-0001, as amended by Chapter 891 of the Statutes of 2001.

(9) Five hundred three million four hundred thirty-three thousand dollars ($503,433,000) from Schedule (1) of Item 6110-156-0001.

(10) Eleven million dollars ($11,000,000) from Item 6110-184-0001, as amended by Chapter 1 of the Statutes of 2002, Third Extraordinary Session.

(11) Four hundred one thousand dollars ($401,000) from Item 6110-185-0001.

(12) One million five hundred twenty-seven thousand dollars ($1,527,000) from Item 6110-186-0001.

(13) Thirty-nine million dollars ($39,000,000) from Item 6110-191-0001, as amended by Chapter 1 of the Statutes of 2002, Third Extraordinary Session.

(14) Four million dollars ($4,000,000) from Schedule (7) of Item 6110-193-0001, as amended by Chapter 1 of the Statutes of 2002, Third Extraordinary Session.

(15) Fourteen million nine hundred sixty-four thousand dollars ($14,964,000) from Schedule (1) of Item 6110-196-0001, as amended by Chapter 1 of the Statutes of 2002, Third Extraordinary Session.

(16) Four million three hundred sixty thousand dollars ($4,360,000) from subdivision (a), program 30.10.020, of Schedule (2) of Item 6110-196-0001, as amended by Chapter 1 of the Statutes of 2002, Third Extraordinary Session.

(17) Six hundred ninety thousand dollars ($690,000) from subdivision (c), program 30.10.020.004, of Schedule (2) of Item 6110-196-0001, as amended by Chapter 1 of the Statutes of 2002, Third Extraordinary Session.

(18) Eleven million nine hundred eighty-two thousand dollars ($11,982,000) from Schedule (1) of Item 6110-198-0001.

(19) Twenty-nine million four hundred fifty thousand dollars ($29,450,000) from Schedule (2) of Item 6110-198-0001.

(20) Two million eight hundred one thousand dollars ($2,801,000) from Schedule (3) of Item 6110-198-0001.

(21) Four million dollars ($4,000,000) from Item 6110-212-0001.
(22) Twenty-five million dollars ($25,000,000) from Item 6110-232-0001, as amended by Chapter 1 of the Statutes of 2002, Third Extraordinary Session.

(23) One million two hundred eighty-four thousand dollars ($1,284,000) from Schedule (1) of Item 6360-101-0001.

(24) One hundred fifteen million five hundred ninety thousand dollars ($115,590,000) from Item 6870-101-0001.

(c) The sum reappropriated pursuant to subdivision (a) is not allocated to school districts or community college districts for the 2001–02 fiscal year, and may not be deemed moneys applied by the state for the support of school districts and community college districts for purposes of Section 8 of Article XVI of the California Constitution.

SEC. 2. The sum of five hundred three million four hundred thirty-three thousand dollars ($503,433,000) is hereby appropriated from the Proposition 98 Reversion Account for transfer to Section A of the State School Fund, for allocation by the Superintendent of Public Instruction to school districts, county offices of education, and other agencies as public school apportionments for costs incurred in the 2001–02 fiscal year under the programs and purposes identified in Item 6110-156-0001 of Section 2.00 of the Budget Act of 2001.

SEC. 3. Sections 1 and 2 of this act make an appropriation for the usual and current expenses of the state within the meaning of Article IV of the California Constitution, and this act shall go into immediate effect.

CHAPTER 100

An act to add Section 101.11 to the Streets and Highways Code, relating to redevelopment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 1, 2002. Filed with Secretary of State July 1, 2002.]

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

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

(a) The Byzantine-Latino Quarter is located at the southwestern border of the neighborhood currently known as the Pico-Union area. The boundaries for the Byzantine-Latino Quarter include the following: Olympic Boulevard on the north; Venice Boulevard on the south; 11th Street and Alvarado Boulevard on the east; and Normandie Avenue on the west.
(b) The Byzantine-Latino Quarter represents one of the more diverse and historic districts within the Los Angeles area, serving as a major contributor to the preservation of cultural understanding and community heritage.

(c) The Pico-Union area was initially established as a fledgling suburb of Los Angeles when downtown Los Angeles was the primary commercial center in the early days of the 20th century. Because of its physical proximity to downtown Los Angeles, the Pico-Union area has served as an attractive destination point for new immigrants. Early residents of the area included middle- and upper-income Norwegians, Swedes, Welsh, and Russian Jews. The changing demographics of the various subcommunity populations have revitalized the growth and development of the Byzantine-Latino Quarter.

(d) The Byzantine-Latino Quarter illustrates a more historic residential and commercial Los Angeles district. Officially designated as the Byzantine-Latino Quarter by the City of Los Angeles, this renewed community creates unique cultural constructs by joining Hellenic ideals and Latin American traditions, further promoting a vibrant sense of community. Sincere community efforts are currently developing the Byzantine-Latino Quarter into a cultural, ethnic, and specialty business zone that highlights the great world cultures represented by the Greek Byzantine as well as Latino populations. This critical endeavor in community building redefines and reinforces that which continues to attract new residents to the area.

(e) The Byzantine-Latino Quarter has witnessed a significant rise in the population of foreign-born residents during the 20th century, attributing to the increasing representation of the Latino population. In general, networks of kin and compadres (those from the same towns and regions) have facilitated the steady influx of Central Americans to the Pico-Union area, promoting easier transitions for these new immigrants. Consequently, numerous community organizations and commercial establishments have responded to this shifting dynamic by tailoring crucial programs and services to the Spanish-speaking population. Census records also indicate the rising numbers of other ethnic minority populations like Asian Pacific Islanders and African-Americans, providing further testament to the diverse contributions of an evolving community.

(f) Being that the Byzantine-Latino Quarter successfully maintains the appeal of its historic cultural elements against its ever-changing demographic profile, this unique area perseveres in drawing new residents, both immigrant and nonimmigrant. The history of the Byzantine-Latino Quarter intimates a rich and enduring tapestry, woven with the threads of many remarkable lives, cultures, and events.
SEC. 2. Section 101.11 is added to the Streets and Highways Code, to read:

101.11. (a) The Department of Transportation shall, through the erection of highway signs and appropriate markers, provide recognition of the historical importance of the Byzantine-Latino Quarter in the City of Los Angeles. In order to implement this subdivision, the department shall determine the cost of signs and other appropriate 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 the cost, shall erect those signs and other appropriate markers at the appropriate locations on Interstate Highway 10.

(b) Local designation efforts and other similar actions may complement this project.

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:

To permit signs and other appropriate markers designating the historic area of the Byzantine-Latino Quarter in the City of Los Angeles to be fabricated and erected at the earliest possible date, in order to best coincide with other redevelopment activities in the area, it is necessary that this act go into immediate effect.

CHAPTER 101

An act relating to appropriations for the support of the government of the State of California for the 2002–03 fiscal year, to take effect immediately as an appropriation for the usual current expenses of the state.

[Approved by Governor July 1, 2002. Filed with Secretary of State July 1, 2002.]

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

SECTION 1. The sum of one billion forty-six million eight hundred ninety-three thousand dollars ($1,046,893,000) is hereby appropriated for expenditure in the 2002–03 fiscal year from the General Fund pursuant to the following schedule and provisions:

(a) The sum of nine hundred thirty-one million three hundred three thousand dollars ($931,303,000) to the Superintendent of Public
Instruction, for transfer by the Controller to Section A of the State School Fund, in accordance with the following subschedule:

(1) (A) The sum of seventy-six million dollars ($76,000,000) for allocation on a one-time basis to school districts and charter schools for the purposes of the Instructional Time and Staff Development Reform Program established by Article 7.5 (commencing with Section 44579) of Chapter 3 of Part 25 of the Education Code.

(B) These funds shall be allocated and expended consistent with the provisions of Item 6110-112-0001 of Section 2.00 of Chapter 106 of the Statutes of 2001, as amended.

(2) (A) The sum of sixty million six hundred forty-three thousand dollars ($60,643,000) for allocation on a one-time basis to school districts and charter schools for the STAR, including funds for primary language tests administered pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33 of the Education Code.

(B) These funds shall be allocated and expended consistent with the provisions of Item 6110-113-0001 of Section 2.00 of Chapter 106 of the Statutes of 2001, as amended.

(3) (A) The sum of sixty-seven million three hundred thousand dollars ($67,300,000) for allocation on a one-time basis to school districts, county offices of education, or charter schools solely for the purpose of implementing the Governor’s High Achieving/Improving Schools Program, pursuant to Article 4 of Chapter 6.1 (commencing with Section 52056) of Part 28 of the Education Code.

(B) These funds shall be allocated and expended consistent with the provisions of Item 6110-123-0001 of Section 2.00 of Chapter 106 of the Statutes of 2001, as amended.

(4) (A) The sum of seven hundred thirteen million three hundred sixty thousand dollars ($713,360,000) for allocation on a one-time basis to school districts, county offices of education or charter schools for the Targeted Instruction Improvement Grant pursuant to Chapter 2.5 (commencing with Section 54200) of Part 29 of the Education Code.

(B) These funds shall be allocated and expended consistent with the provisions of Item 6110-132-0001 of Section 2.00 of Chapter 106 of the Statutes of 2001, as amended.

(5) (A) The sum of fourteen million dollars ($14,000,000) for allocation on a one-time basis to school districts, county offices of education, or charter schools for the Beginning Teacher Support and Assessment System, as set forth in Article 4.5 (commencing with Section 44279.1) of Chapter 2 of Part 25 of the Education Code.

(B) These funds shall be allocated and expended consistent with the provisions of Item 6110-191-0001 of Section 2.00 of Chapter 106 of the Statutes of 2001, as amended.
(b) (1) The sum of one hundred fifteen million five hundred and ninety thousand dollars ($115,590,000) to the Board of Governors of the California Community Colleges, for transfer by the Controller to Section B of the State School Fund, for allocation on a one-time basis to community college districts.

(2) These funds shall be allocated consistent with the provisions of Item 6870-101-0001 of Section 2.00 of Chapter 106 of the Statutes of 2001, as amended.

(c) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the allocations made by subdivision (a) shall be deemed to be “General Fund revenues appropriated for school districts,” as defined in subdivision (c) of Section 41202 of the Education Code, for the 2002–03 fiscal year, and included within the “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as defined in subdivision (e) of Section 41202 of the Education Code for the 2002–03 fiscal year.

(d) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the allocations made by subdivision (b) shall be deemed to be “General Fund revenues appropriated for community college districts,” as defined in subdivision (d) of Section 41202 of the Education Code, for the 2002–03 fiscal year, and included within the “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as defined in subdivision (e) of Section 41202 of the Education Code for the 2002–03 fiscal year.

SEC. 2. By August 1, 2002, the Superintendent of Public Instruction and the Board of Governors of the California Community Colleges shall allocate the funds appropriated by Section 1 of this act.

SEC. 3. This act shall not become operative unless Assembly Bill No. 3008 of the 2001–02 Regular Session is enacted.

SEC. 4. This act makes an appropriation for the usual current expenses of the state within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 102

An act to add Section 383c to the Penal Code, relating to crime.

[Approved by Governor July 2, 2002. Filed with Secretary of State July 2, 2002.]
The people of the State of California do enact as follows:

SECTION 1. Section 383c is added to the Penal Code, to read:

383c. Every person who with intent to defraud, sells or exposes for sale any meat or meat preparations, and falsely represents the same to be halal, whether such meat or meat preparations be raw or prepared for human consumption, or as having been prepared under and from a product or products sanctioned by the Islamic religious requirements; or falsely represents any food product, or the contents of any package or container, to be so constituted and prepared, by having or permitting to be inscribed thereon the words “halal” in any language; or sells or exposes for sale in the same place of business both halal and nonhalal meat or meat preparations, either raw or prepared for human consumption, who fails to indicate on his window signs in all display advertising in block letters at least four inches in height “halal and nonhalal meats sold here;” or who exposes for sale in any show window or place of business as both halal and nonhalal meat preparations, either raw or prepared for human consumption, who fails to display over each kind of meat or meat preparation so exposed a sign in block letters at least four inches in height, reading “halal meat” or “nonhalal meat” as the case may be; or sells or exposes for sale in any restaurant or any other place where food products are sold for consumption on the premises, any article of food or food preparations and falsely represents the same to be halal, or as having been prepared in accordance with the Islamic religious requirements; or sells or exposes for sale in such restaurant, or such other place, both halal and nonhalal food or food preparations for consumption on the premises, not prepared in accordance with the Islamic ritual, or not sanctioned by Islamic religious requirements, and who fails to display on his window signs in all display advertising, in block letters at least four inches in height “halal and nonhalal food served here” is guilty of a misdemeanor and upon conviction thereof be punishable by a fine of not less than one hundred dollars ($100), nor more than six hundred dollars ($600), or imprisonment in a county jail of not less than 30 days, nor more than 90 days, or both such fine and imprisonment.

The word “halal” is here defined to mean a strict compliance with every Islamic law and custom pertaining and relating to the killing of the animal or fowl from which the meat is taken or extracted, the dressing, treatment and preparation thereof for human consumption, and the manufacture, production, treatment, and preparation of such other food or foods in connection therewith Islamic laws and customs obtain and to the use of tools, implements, vessels, utensils, dishes, and containers that are used in connection with the killing of such animals and fowls and
the dressing, preparation, production, manufacture, and treatment of such meats and other products, foods, and food stuffs.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 103

An act to amend Section 12502 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 2, 2002. Filed with Secretary of State July 2, 2002.]

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

SECTION 1. Section 12502 of the Vehicle Code is amended to read:

12502. (a) The following persons may operate a motor vehicle in this state without obtaining a driver's license under this code:

(1) A nonresident over the age of 18 years having in his or her immediate possession a valid driver's license issued by a foreign jurisdiction of which he or she is a resident, except as provided in Section 12505.

(2) A nonresident, 21 years of age or older, if transporting hazardous material, as defined in Section 353, in a commercial vehicle, having in his or her immediate possession, a valid license with the appropriate endorsement issued by another state or other jurisdiction that is recognized by the department, or a Canadian driver's license and a copy of his or her current training certificate to transport hazardous material that complies with all federal laws and regulations with respect to hazardous materials, both of which shall be in his or her immediate possession.

(3) A nonresident having in his or her immediate possession a valid driver's license, issued by the Diplomatic Motor Vehicle Office of the Office of Foreign Missions of the United States Department of State, for the type of motor vehicle or combination of vehicles that the person is operating.
(b) Any person entitled to the exemption contained in subdivision (a), while operating, within this state, a commercial vehicle, as defined in subdivision (b) of Section 15210, shall have in his or her possession a current medical certificate of a type described in subdivision (c) of Section 12804.9, which has been issued within two years of the date of operation of that vehicle.

(c) A nonresident possessing a medical certificate in accordance with subdivision (b) shall comply with any restriction of the medical certificate issued to that nonresident.

SEC. 2. It is the intent of the Legislature that this act shall not be construed to abrogate any provision of law that would otherwise require an individual to obtain a California driver’s license.

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 ensure the safety of California’s highways, it is necessary that this act take effect immediately.

CHAPTER 104

An act to amend Section 31304 of the Vehicle Code, relating to transportation of hazardous materials.

[Approved by Governor July 2, 2002. Filed with Secretary of State July 2, 2002.]

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

SECTION 1. Section 31304 of the Vehicle Code is amended to read:

31304. (a) The transportation of hazardous materials and hazardous waste for which the display of placards or markings is required pursuant to Section 27903 may be restricted or prohibited, by the Department of the California Highway Patrol, after consultation with the Department of Transportation, with regard to state or interstate
highways, or by a city or county by ordinance or resolution, after formal notice to the Department of the California Highway Patrol and with the concurrence of their appropriate transportation planning agency defined in Section 29532 of the Government Code, with regard to specified highways under their control, if all of the following requirements are met:

(1) The respective highway is appreciably less safe than a reasonable alternate highway as determined by using either of the following criteria:
   (B) The Department of the California Highway Patrol or the city or county, whichever has jurisdiction pursuant to subdivision (a), determines that the respective highway is located within the watershed of a drinking water reservoir which meets all of the following requirements:
      (i) The reservoir is owned or operated by a public water system, as defined in Section 116275 of the Health and Safety Code.
      (ii) The reservoir has a capacity of at least 10,000 acre feet.
      (iii) The reservoir directly serves a water treatment plant, as defined in Section 116275 of the Health and Safety Code.
      (iv) The reservoir is impounded by a dam, as defined in Section 6002 of the Water Code.
      (v) The reservoir’s shoreline is located within 500 feet of the highway.
   (2) The restriction or prohibition on the use of the highway pursuant to this section is not precluded or preempted by federal law.
   (3) The restriction or prohibition does not eliminate necessary access to local pickup or delivery points consistent with safe vehicle operation; does not eliminate reasonable access to fuel, repairs, rest, or food facilities that are designed and intended to accommodate commercial vehicle parking, when that access is consistent with safe vehicle operation and when the facility is within one-half road mile of points of entry or exit from the state or interstate highway being used; or does not restrict or prohibit the use of highways when no other lawful alternative exists.
   (4) Written concurrence has been obtained from affected surrounding jurisdictions, including, but not limited to, state agencies, counties, cities, special districts, or other political subdivisions of the state, that the proposed restriction or prohibition is not incompatible with through transportation. If written concurrence is not granted by one of the affected surrounding jurisdictions, that action may be appealed to the appropriate transportation planning agency for final resolution.
(5) The highway is posted by the agency responsible for highway signs on that highway in conformity with standards of the Department of Transportation.

(6) A list of the routes restricted or prohibited is submitted to the Department of the California Highway Patrol.

(7) The highway is included in a list of highways restricted or prohibited pursuant to this section which is published by the Department of the California Highway Patrol and is available to interested parties for not less than 14 days.

(b) Notwithstanding any prohibition or restriction adopted pursuant to subdivision (a), deviation from restricted or prohibited routes is authorized in an emergency or other special circumstances with the concurrence of a member of the agency having traffic law enforcement authority for the highway.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 105

An act to amend Sections 41600, 41602, and 41603 of, and to add Section 41601.5 to, the Vehicle Code, relating to citations.

[Approved by Governor July 2, 2002. Filed with Secretary of State July 2, 2002.]

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

SECTION 1. Section 41600 of the Vehicle Code is amended to read:

41600. For purposes of this chapter, “arrest quota” means any requirement regarding the number of arrests made, or the number of citations issued, by a peace officer, or parking enforcement employee, or the proportion of those arrests made and citations issued by a peace officer or parking enforcement employee, relative to the arrests made and citations issued by another peace officer or parking enforcement employee, or group of officers or employees.

SEC. 2. Section 41601.5 is added to the Vehicle Code, to read:
41601.5. For purposes of this chapter, “agency” includes the Regents of the University of California.

SEC. 3. Section 41602 of the Vehicle Code is amended to read:

41602. No state or local agency employing peace officers or parking enforcement employees engaged in the enforcement of this code or any local ordinance adopted pursuant to this code, may establish any policy requiring any peace officer or parking enforcement employees to meet an arrest quota.

SEC. 4. Section 41603 of the Vehicle Code is amended to read:

41603. No state or local agency employing peace officers or parking enforcement employees engaged in the enforcement of this code shall use the number of arrests or citations issued by a peace officer or parking enforcement employees as the sole criterion for promotion, demotion, dismissal, or the earning of any benefit provided by the agency. Those arrests or citations, and their ultimate dispositions, may only be considered in evaluating the overall performance of a peace officer or parking enforcement employees. An evaluation may include, but shall not be limited to, criteria such as attendance, punctuality, work safety, complaints by citizens, commendations, demeanor, formal training, and professional judgment.

CHAPTER 106

An act relating to veterans.

[Approved by Governor July 3, 2002. Filed with Secretary of State July 3, 2002.]

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

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

(a) 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. The Korean War is often called “The Forgotten War” because many of our nation’s veterans who served in that conflict have been forgotten.

(b) 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. 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 will stand as eternal symbols that the State of California honors and remembers its veterans.

(c) In 1998, a memorial honoring Korean War veterans was built in the San Joaquin Valley National Cemetery near Santa Nella. This memorial was donated by its founders and supporters to the federal government, and is maintained by the National Cemetery. The memorial includes the names of 2,496 California soldiers who are listed as killed in action (KIA), missing in action (MIA), or died while missing (DWM) during the Korean War.

(d) It is therefore fitting and proper that the existing Korean War memorial built in 1998 in the San Joaquin Valley National Cemetery near Santa Nella be recognized as the Remembrance Memorial for California Korean War Veterans at Santa Nella.

SEC. 2. The existing Korean War memorial built in 1998 in the San Joaquin Valley National Cemetery near Santa Nella shall be recognized as the official state memorial for veterans of the Korean War, and shall be known as the Remembrance Memorial for California Korean War Veterans at Santa Nella.

CHAPTER 107

An act to amend Sections 472.4 and 4999 of, and to add Sections 1601.2, 1742.1, 2001.1, 2450.1, 2460.1, 2531.02, 2570.25, 2602.1, 2708.1, 2841.1, 2920.1, 3010.1, 3320.1, 3504.1, 3710.1, 4001.1, 4501.1, 4800.1, 4928.1, 4990.125, 5000.1, 5510.15, 5620.1, 6710.1, 7000.6, 7200.1, 7303.1, 7501.05, 7601.1, 7810.1, 8005.1, 8520.1, 8710.1, 9880.3, 18602.1, and 19004.1 to, the Business and Professions Code, and to add Section 94770.1 to the Education Code, relating to professional and vocational licensing boards.

[Approved by Governor July 3, 2002. Filed with Secretary of State July 5, 2002.]

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

SECTION 1. Section 472.4 of the Business and Professions Code is amended to read:

472.4. In addition to any other requirements of this chapter, the department shall do all of the following:

(a) Establish procedures to assist owners or lessees of new motor vehicles who have complaints regarding the operation of a qualified third-party dispute resolution process.
(b) Establish methods for measuring customer satisfaction and to identify violations of this chapter, which shall include an annual random postcard or telephone survey by the department of the customers of each qualified third-party dispute resolution process.

(c) Monitor and inspect, on a regular basis, qualified third-party dispute resolution processes to determine whether they continue to meet the standards for certification. Monitoring and inspection shall include, but not be limited to, all of the following:

(1) Onsite inspections of each qualified third-party dispute resolution process not less frequently than twice annually.

(2) Investigation of complaints from consumers regarding the operation of qualified third-party dispute resolution processes and analyses of representative samples of complaints against each process.

(3) Analyses of the annual surveys required by subdivision (b).

(d) Notify the Department of Motor Vehicles of the failure of a manufacturer to honor a decision of a qualified third-party dispute resolution process to enable the Department of Motor Vehicles to take appropriate enforcement action against the manufacturer pursuant to Section 11705.4 of the Vehicle Code.

(e) Submit a biennial report to the Legislature evaluating the effectiveness of this chapter, make available to the public summaries of the statistics and other information supplied by each qualified third-party dispute resolution process, and publish educational materials regarding the purposes of this chapter.

(f) Adopt regulations as necessary and appropriate to implement this chapter and subdivision (d) of Section 1793.22 of the Civil Code.

(g) Protection of the public shall be the highest priority for the department in exercising its certification, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 2. Section 1601.2 is added to the Business and Professions Code, to read:

1601.2. Protection of the public shall be the highest priority for the Dental Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 3. Section 1742.1 is added to the Business and Professions Code, to read:

1742.1. Protection of the public shall be the highest priority for the Committee on Dental Auxiliaries in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is
inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 4. Section 2001.1 is added to the Business and Professions Code, to read:

2001.1. Protection of the public shall be the highest priority for the Medical Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 5. Section 2450.1 is added to the Business and Professions Code, to read:

2450.1. Protection of the public shall be the highest priority for the Osteopathic Medical Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 6. Section 2460.1 is added to the Business and Professions Code, to read:

2460.1. Protection of the public shall be the highest priority for the California Board of Podiatric Medicine in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 7. Section 2531.02 is added to the Business and Professions Code, to read:

2531.02. Protection of the public shall be the highest priority for the Speech-Language Pathology and Audiology Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 8. Section 2570.25 is added to the Business and Professions Code, to read:

2570.25. Protection of the public shall be the highest priority for the California Board of Occupational Therapy in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 9. Section 2602.1 is added to the Business and Professions Code, to read:

2602.1. Protection of the public shall be the highest priority for the Physical Therapy Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.
SEC. 10. Section 2708.1 is added to the Business and Professions Code, to read:

2708.1. Protection of the public shall be the highest priority for the Board of Registered Nursing in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 11. Section 2841.1 is added to the Business and Professions Code, to read:

2841.1. Protection of the public shall be the highest priority for the Board of Vocational Nursing and Psychiatric Technicians of the State of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 12. Section 2920.1 is added to the Business and Professions Code, to read:

2920.1. Protection of the public shall be the highest priority for the Board of Psychology in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 13. Section 3010.1 is added to the Business and Professions Code, to read:

3010.1. Protection of the public shall be the highest priority for the State Board of Optometry in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 14. Section 3320.1 is added to the Business and Professions Code, to read:

3320.1. Protection of the public shall be the highest priority for the Hearing Aid Dispensers Bureau in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 15. Section 3504.1 is added to the Business and Professions Code, to read:

3504.1. Protection of the public shall be the highest priority for the Physician Assistant Committee of the Medical Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.
SEC. 16.  Section 3710.1 is added to the Business and Professions Code, to read:
3710.1.  Protection of the public shall be the highest priority for the Respiratory Care Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 17.  Section 4001.1 is added to the Business and Professions Code, to read:
4001.1.  Protection of the public shall be the highest priority for the California State Board of Pharmacy in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 18.  Section 4501.1 is added to the Business and Professions Code, to read:
4501.1.  Protection of the public shall be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 19.  Section 4800.1 is added to the Business and Professions Code, to read:
4800.1.  Protection of the public shall be the highest priority for the Veterinary Medical Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 20.  Section 4928.1 is added to the Business and Professions Code, to read:
4928.1.  Protection of the public shall be the highest priority for the Acupuncture Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 21.  Section 4990.125 is added to the Business and Professions Code, to read:
4990.125.  Protection of the public shall be the highest priority for the Board of Behavioral Sciences in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 22.  Section 4999 of the Business and Professions Code is amended to read:
4999. (a) On and after January 1, 2000, no business entity that employs, or contracts or subcontracts, directly or indirectly, with, the full-time equivalent of five or more persons functioning as health care professionals, whose primary function is to provide telephone medical advice, shall engage in the business of providing telephone medical advice services to a patient at a California address unless the business is registered with the Telephone Medical Advice Services Bureau. The department may adopt emergency regulations further defining when a health care professional’s primary function is providing telephone medical advice.

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


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

(c) A medical group that operates in multiple locations in California shall not be required to register pursuant to this section if no more than five full-time equivalent persons at any one location perform telephone medical advice services and those persons limit the telephone medical advice services to patients being treated at that location.

(d) Protection of the public shall be the highest priority for the bureau in exercising its registration, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 23. Section 5000.1 is added to the Business and Professions Code, to read:

5000.1. Protection of the public shall be the highest priority for the California Board of Accountancy in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 24. Section 5510.15 is added to the Business and Professions Code, to read:

5510.15. Protection of the public shall be the highest priority for the California Architects Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.
SEC. 25. Section 5620.1 is added to the Business and Professions Code, to read:

5620.1. Protection of the public shall be the highest priority for the Landscape Architects Technical Committee in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 26. Section 6710.1 is added to the Business and Professions Code, to read:

6710.1. Protection of the public shall be the highest priority for the Board for Professional Engineers and Land Surveyors in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 27. Section 7000.6 is added to the Business and Professions Code, to read:

7000.6. Protection of the public shall be the highest priority for the Contractors’ State License Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 28. Section 7200.1 is added to the Business and Professions Code, to read:

7200.1. Protection of the public shall be the highest priority for the State Board of Guide Dogs for the Blind in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 29. Section 7303.1 is added to the Business and Professions Code, to read:

7303.1. Protection of the public shall be the highest priority for the Bureau of Barbering and Cosmetology in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 30. Section 7501.05 is added to the Business and Professions Code, to read:

7501.05. Protection of the public shall be the highest priority for the Bureau of Security and Investigative Services in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 31. Section 7601.1 is added to the Business and Professions Code, to read:
7601.1. Protection of the public shall be the highest priority for the Cemetery and Funeral Bureau in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 32. Section 7810.1 is added to the Business and Professions Code, to read:

7810.1. Protection of the public shall be the highest priority for the Board for Geologists and Geophysicists in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 33. Section 8005.1 is added to the Business and Professions Code, to read:

8005.1. Protection of the public shall be the highest priority for the Court Reporters Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 34. Section 8520.1 is added to the Business and Professions Code, to read:

8520.1. Protection of the public shall be the highest priority for the Structural Pest Control Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 35. Section 9810.1 is added to the Business and Professions Code, to read:

9810.1. Protection of the public shall be the highest priority for the Bureau of Electronic and Appliance Repair in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 36. Section 9880.3 is added to the Business and Professions Code, to read:

9880.3. Protection of the public shall be the highest priority for the Bureau of Automotive Repair in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 37. Section 18602.1 is added to the Business and Professions Code, to read:

18602.1. Protection of the public shall be the highest priority for the State Athletic Commission in exercising its licensing, regulatory, and
disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 38. Section 19004.1 is added to the Business and Professions Code, to read:

19004.1. Protection of the public shall be the highest priority for the Bureau of Home Furnishings and Thermal Insulation in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 39. Section 94770.1 is added to the Education Code, to read:

94770.1. Protection of the public shall be the highest priority for the Bureau for Private Postsecondary and Vocational Education in exercising its approval, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

CHAPTER 108

An act to amend Section 1758.81 and 1758.92 of the Insurance Code, relating to insurance.

[Approved by Governor July 3, 2002. Filed with Secretary of State July 5, 2002.]

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

SECTION 1. Section 1758.81 of the Insurance Code is amended to read:

1758.81. (a) An applicant for a rental car agent license under this article shall file the following documents with the commissioner:

(1) A written application for licensure, signed by the applicant or an officer of the applicant, in the form prescribed by the commissioner.

(2) A certificate by the insurer that is to be named in the rental car agent license, stating that the insurer has satisfied itself that the named applicant is trustworthy and competent to act as its insurance agent limited to this purpose and that the insurer will appoint the applicant to act as its agent to transact the kind or kinds of insurance that are permitted by this article, if the rental car agent license applied for is issued by the commissioner. The certification shall be subscribed by an officer or managing agent of the insurer on a form prescribed by the commissioner.
(3) An application fee, and each license period thereafter, a renewal fee, in an amount or amounts determined by the department as sufficient to defray the department’s actual cost of processing the application or renewal and implementing this article.

(4) Not less than 60 days before a permanent license will expire, the commissioner may mail, to the latest address appearing on his or her records, an application to the licensee to renew the license for the appropriate succeeding license period. It is the licensee’s responsibility to renew whether or not a renewal application is received. The commissioner may accept a late renewal without a penalty, provided the licensee’s failure to comply is due to clerical error or inadvertence on the part of the department.

(A) The application for renewal of a license shall be filed on or before the expiration date.

(B) The application for renewal of an expired license may be filed after the expiration date and until that same month and day of the next succeeding year. A licensee who files the renewal application after the license has expired shall be charged, in addition to the renewal fee, a penalty of 50 percent of the renewal fee.

(b) Notwithstanding any other provision of law to the contrary, Sections 1667, 1668, 1668.5, 1669, 1720, 1738, and 1739 apply to any application for or issuance of a license pursuant to this article.

(c) Costs associated with any enforcement action or investigation shall be paid for by the person or organization licensed pursuant to this article.

SEC. 2. Section 1758.92 of the Insurance Code is amended to read:

1758.92. (a) An applicant for a credit insurance agent license under this article shall submit each of the following to the commissioner:

(1) A written application for licensure signed by the applicant or an officer of the applicant, in the form prescribed by the commissioner.

(2) A certificate by the insurer that is to be named in the credit insurance agent license, stating that the insurer has satisfied itself that the named applicant is trustworthy and competent to act as its insurance agent limited to this purpose and that the insurer will appoint the applicant to act as its agent in reference to selling or soliciting the kind or kinds of insurance that are permitted by this article, if the credit insurance agent license applied for is issued by the commissioner. The certification shall be subscribed by an officer or managing agent of the insurer on a form prescribed by the commissioner.

(3) An application fee, and each license period thereafter, a renewal fee, in an amount or amounts determined by the department as sufficient to defray the department’s actual costs of processing the application or renewal and implementing this article.
The limitation on fee increases of 10 percent without prior approval of the Legislature set forth in Section 12978 shall not apply to the application or renewal fee set forth in this subdivision during the years 2002, 2003, and 2004.

(b) Notwithstanding any other provision of law to the contrary, the provisions set forth in Sections 1667, 1668, 1668.5, 1669, 1670, 1720, 1738, and 1739 apply to any application for or issuance of a license, or any application for or approval of an endorsee, pursuant to this article.

(c) (1) Not less than 60 days before a permanent license will expire, the commissioner may mail, to the latest address appearing on his or her records, an application to the licensee to renew the license for the appropriate succeeding license period. It is the licensee’s responsibility to renew whether or not a renewal application is received. The commissioner may accept a late renewal without penalty, provided the licensee’s failure to comply is due to a clerical error or inadvertence on the part of the department.

(2) An application for renewal shall be filed on or before the expiration date.

(3) The application for renewal of an expired license may be filed after the expiration date and until that same month and date of the next succeeding year. A licensee who files a renewal application after the license has expired shall be charged, in addition to the renewal fee, a penalty of 50 percent of the renewal fee for the credit insurance agent license and all endorsee.

(d) Costs associated with any enforcement action or investigation shall be paid for by the person or organization licensed pursuant to this article.

CHAPTER 109

An act to amend Section 1569.73 of the Health and Safety Code, relating to care facilities.

[Approved by Governor July 3, 2002. Filed with Secretary of State July 5, 2002.]

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

SECTION 1. Section 1569.73 of the Health and Safety Code is amended to read:

1569.73. (a) Notwithstanding Section 1569.72 or any other provision of law, a residential care facility for the elderly may obtain a waiver from the department for the purpose of allowing a resident who
has been diagnosed as terminally ill by his or her physician and surgeon to remain in the facility, or allowing a person who has been diagnosed as terminally ill by his or her physician and surgeon to become a resident of the facility if that person is already receiving hospice services and would continue to receive hospice services without disruption if he or she became a resident, when all the following conditions are met:

(1) The facility agrees to retain the terminally ill resident, or accept as a resident the terminally ill person, and to seek a waiver on behalf of the individual, provided the individual has requested the waiver and is capable of deciding to obtain hospice services.

(2) The terminally ill resident, or the terminally ill person to be accepted as a resident, has obtained the services of a hospice certified in accordance with federal medicare conditions of participation and licensed pursuant to Chapter 8 (commencing with Section 1725) or Chapter 8.5 (commencing with Section 1745).

(3) The facility, in the judgment of the department, has the ability to provide care and supervision appropriate to meet the needs of the terminally ill resident or the terminally ill person to be accepted as a resident, and is in substantial compliance with regulations governing the operation of residential care facilities for the elderly.

(4) The hospice has agreed to design and provide for care, services, and necessary medical intervention related to the terminal illness as necessary to supplement the care and supervision provided by the facility.

(5) An agreement has been executed between the facility and the hospice regarding the care plan for the terminally ill resident or terminally ill person to be accepted as a resident. The care plan shall designate the primary caregiver, identify other caregivers, and outline the tasks the facility is responsible for performing and the approximate frequency with which they shall be performed. The care plan shall specifically limit the facility’s role for care and supervision to those tasks allowed under this chapter.

(6) The facility has obtained the agreement of those residents who share the same room with the terminally ill resident, or any resident who will share a room with the terminally ill person to be accepted as a resident, to allow the hospice caregivers into their residence.

(b) At any time that the licensed hospice, the facility, or the terminally ill resident determines that the resident’s condition has changed so that continued residence in the facility will pose a threat to the health and safety to the terminally ill resident or any other resident, the facility may initiate procedures for a transfer.

(c) Nothing in this section is intended to expand the scope of care and supervision for a residential care facility for the elderly as defined in this act, nor shall a facility be required to alter or extend its license in order
to retain a terminally ill resident or allow a terminally ill person to become a resident of the facility as authorized by this section.

(d) Nothing in this section shall require any care or supervision to be provided by the residential care facility for the elderly beyond that which is permitted in this chapter.

(e) Nothing in this section is intended to expand the scope of life care contracts or the contractual obligation of continuing care retirement communities as defined in Section 1771.

(f) The department shall not be responsible for the evaluation of medical services provided to the resident by the hospice and shall have no liability for the independent acts of the hospice.

(g) Nothing in this section shall be construed to relieve a licensed residential care facility for the elderly of its responsibility to notify the appropriate fire authority of the presence of a bedridden resident in the facility as required under subdivision (e) of Section 1569.72, and to obtain and maintain a fire clearance as required under Section 1569.149.

CHAPTER 110

An act to amend Section 660.5 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor July 3, 2002. Filed with Secretary of State July 5, 2002.]

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

SECTION 1. Section 660.5 of the Welfare and Institutions Code is amended to read:

660.5. (a) This section shall be known as the Expedited Youth Accountability Program. It shall be operative in the superior court in Los Angeles County. It shall also be operative in any other county in which a committee consisting of the sheriff, the chief probation officer, the district attorney, the public defender, and the presiding judge of the superior court votes to participate in the program, upon approval by the board of supervisors.

(b) It is the intent of the Legislature to hold nondetained, delinquent youth accountable for their crimes in a swift and certain manner.

(c) Each county participating in the Expedited Youth Accountability Program shall establish agreed upon time deadlines for law enforcement, probation, district attorney, and court functions which shall assure that a case which is to proceed pursuant to this section shall be ready to be heard within 60 calendar days after the minor is cited to the court.
(d) (1) Notwithstanding Sections 658, 659, and 660, if a minor is not detained for any misdemeanor or felony offense and is not cited to Informal Juvenile and Traffic Court pursuant to paragraphs (1) to (15), inclusive, of Section 256 and Section 853.6a of the Penal Code, the peace officer or probation officer releasing the minor shall issue a citation and obtain a written promise to appear in juvenile court, or record the minor’s refusal to sign the promise to appear and serve a notice to appear in juvenile court. The appearance shall not be set for more than 60 calendar days nor less than 10 calendar days from the issuance of the citation. If the 60th day falls on a court holiday, the appearance date shall be on the next date that the court is in session. The date set for the appearance of the minor shall allow for sufficient time for the probation department to evaluate eligible minors for informal handling under Section 654 or any other disposition provided by law. However, nothing in this section shall be construed to limit or conflict with Sections 653.1 and 653.5.

(2) Upon receipt of the citation and petition, but in no event less than 72 hours, excluding nonjudicial days and holidays prior to the hearing, the clerk of the juvenile court shall issue a copy of the citation and petition to the public defender or the minor’s attorney of record. If a copy of the citation and petition is not provided at least 72 hours, excluding nonjudicial days and holidays prior to the hearing, it shall be grounds to request a continuance pursuant to Sections 682 and 700. At a hearing conducted under Section 700, the minor and minor’s parent or guardian shall be furnished a copy of the petition and any other material required to be provided under Section 659.

(3) The original citation and promise or notice to appear shall be retained by the court if a petition is filed. In addition, there shall be three copies of the citation and promise or notice to appear, which shall be distributed as follows:

(A) One copy shall be provided to the person to whom the citation is issued.
(B) One copy shall be provided to the probation department.
(C) If a petition is requested, the second copy of the citation shall go to the district attorney along with the petition request, and the third copy shall be retained by the agency issuing the citation.

(4) The original citation shall include a copy of all police reports relating to the citation and a petition request. The citation shall contain the following information:

(A) Date, time, and location of the issuance of the citation.
(B) The name, address, telephone number if known, driver’s license number, age, date of birth, sex, race, height, weight, hair color, and color of eyes of the person to whom the citation is issued.
(C) A list of the offenses and the location where the offense or offenses were committed.

(D) Date and time of the required court appearance.

(E) Address of the juvenile court where the person to whom the citation is issued is to appear.

(F) A preprinted promise to appear which is signed by the person to whom the citation is issued, or where the person refused to sign the written promise, the notice to appear.

(G) A preprinted declaration under penalty of perjury that the above information is true and correct, signed by the peace officer or probation officer issuing the citation.

(H) A statement that the failure to appear is punishable as a misdemeanor.

(e) The minor’s parent or guardian shall be issued a citation in the same manner as described in subdivision (b).

(f) The willful failure to appear in court pursuant to a citation or notice issued as required pursuant to this section is a misdemeanor.

(g) (1) Notwithstanding Section 662, if a parent or guardian to whom a citation has been issued pursuant to this section fails to appear, a warrant of arrest may issue for that person. A warrant of arrest may also issue for a parent or guardian who is not personally served where efforts to effect personal service have been unsuccessful, upon an affidavitt under penalty of perjury, signed by a peace officer stating facts sufficient to establish that all reasonable efforts to locate the person have failed or that the person has willfully evaded service of process.

(2) Notwithstanding Section 663, if a minor to whom a citation has been issued pursuant to this section fails to appear, and the minor’s parent or guardian has either appeared or the prerequisite conditions for issuing a warrant against the minor’s parent or guardian under paragraph (1) have been met, a warrant of arrest may issue for the minor.

(3) A warrant of arrest may also issue for a minor who is not personally served where each of the following occur:

(A) Efforts to effect personal service have been unsuccessful.

(B) An affidavit is submitted under penalty of perjury, signed by a peace officer, stating facts sufficient to establish that all reasonable efforts to locate the minor have failed or that minor has willfully evaded service of process.

(C) The minor’s parent or guardian has either appeared or the prerequisite conditions for issuing a warrant against the minor’s parent or guardian under paragraph (1) have been met.

(h) (1) Notwithstanding Section 654 or any other provision of law, a probation officer in a county in which this subdivision is applicable may, in lieu of filing a petition or proceeding under Section 654, issue a citation in the form described in subdivision (d) to the Informal
Juvenile and Traffic Court pursuant to Section 256 for any misdemeanor except the following:

(A) Any crime involving a firearm.
(B) Any crime involving violence.
(C) Any crime involving a sex-related offense.
(D) Any minor who has previously been declared a ward of the court.
(E) Any minor who has previously been referred to juvenile traffic court pursuant to this section.

(2) This subdivision shall apply only if the case will be heard by a juvenile hearing officer who meets the minimum qualifications of a juvenile court referee and only in those counties in which a committee consisting of the sheriff, the chief probation officer, the district attorney, the public defender, and the presiding judge of the superior court vote for this subdivision to apply and then only upon approval of the board of supervisors. This approval shall be required in Los Angeles and all other counties participating in the program, and shall be in addition to that required by subdivision (a) for participation in the Expedited Youth Accountability Program.

(3) In counties in which this subdivision is applicable, the probation department shall conduct a risk and needs assessment for each minor eligible for citation to the Informal Juvenile and Traffic Court pursuant to paragraph (1). The risk and needs assessment shall consider the best interest of the minor and the protection of the community. It shall also include an assessment of whether the child has any significant problems in the home, school, or community, whether the matter appears to have arisen from a temporary problem within the family which has been or can be resolved, and whether any agency or other resource in the community is better suited to serve the needs of the child, the parent or guardian, or both.

(i) In the event that the probation officer places a minor on informal probation or cites the minor to Informal Juvenile and Traffic Court, or elects some other lawful disposition not requiring the hearing set forth in subdivision (b), the probation officer shall so inform the minor and his or her parent or guardian no later than 72 hours, excluding nonjudicial days and holidays, prior to the hearing, that a court appearance is not required.

(j) Except as modified by this section, the requirements of this chapter shall remain in full force and effect.

(k) This section shall be operative on January 1, 1998, and shall be implemented in all branches of the juvenile court in Los Angeles County on or before July 1, 1998.

(l) It is the intent of the Legislature that an interim hearing be conducted by appropriate policy committees in the Legislature prior to January 1, 2002, to examine the success of the program in expediting
punishment for juvenile offenses, reducing delinquent behavior, and promoting greater accountability on the part of juvenile offenders.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 111

An act to amend Sections 1765.125 and 1765.150 of the Health and Safety Code, relating to health care.

[Approved by Governor July 3, 2002. Filed with Secretary of State July 5, 2002.]

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

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

(a) Mobile health care units serve a vital role in providing health care to rural communities.

(b) The patients who benefit from services provided by mobile health care units typically face tremendous barriers in accessing health care, such as lack of transportation, language, fear, and loss of wages.

(c) Mobile health care units together with telemedicine help to address many of the barriers to accessing health care.

(d) It should be the goal of the Legislature to provide the valuable services of mobile health care units to as many people as need those services.

SEC. 2. Section 1765.125 of the Health and Safety Code is amended to read:

1765.125. (a) Except as provided in subdivision (b), no person, political subdivision of the state, or governmental agency shall operate a mobile service unit without first obtaining a license or an addition to existing licensure under this chapter unless exempt from licensure under Section 1206.

(b) Any person, political subdivision of the state, or governmental agency, that was operating a mobile unit as of January 1, 1994, may continue to operate the mobile unit only under the following conditions:
(1) The person, political subdivision of the state, or governmental agency shall apply to the state department for a mobile unit license, or an addition to existing licensure, via a request for licensure under this chapter by March 1, 1994.

(2) The person, political subdivision of the state, or governmental agency shall cease operating the mobile unit upon a final decision of the state department denying the application for licensure or addition to licensure under this chapter.

(c) Notwithstanding any other provision of this chapter, after the initial licensure, or the initial approval of the addition to existing licensure of a parent facility, to operate a mobile service unit, the department shall not require that each site where the mobile unit operates be licensed or approved by the department unless the mobile unit will be operating outside of the proposed area or areas specified in the application pursuant to paragraph (4) of subdivision (b) of Section 1765.130.

SEC. 3. Section 1765.150 of the Health and Safety Code is amended to read:

1765.150. (a) The mobile unit shall be of sufficient size and shall be arranged in a manner that is appropriate for the provision of those health care services that it is licensed to provide.

(b) The mobile unit shall be equipped with appropriate utilities for the comfort and safety of patients. The Office of Statewide Health Planning and Development shall review and approve hospital-provided utility connections for mobile units that require utility hookups with general acute care hospitals.

(c) The mobile unit shall be maintained in good repair and in a clean and sanitary manner.

(d) All proposed modifications to previously approved services and procedures shall be reviewed and approved by the state department before they are implemented. Modifications to the mobile service unit shall be approved by the Department of Housing and Community Development pursuant to Section 18029.

(e) A mobile unit shall not operate at any site unless the site has been reported by the licensee to the department at least 15 days before the mobile unit’s first visit to the site. Prior to the operation of a mobile unit at any site for the first time, the licensee shall report the site to local authorities for purposes of obtaining any approval required pursuant to Section 1765.155.
An act to amend Section 6615 of the Corporations Code, relating to corporations.

[Approved by Governor July 3, 2002. Filed with Secretary of State July 5, 2002.]

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

SECTION 1. Section 6615 of the Corporations Code is amended to read:

6615. (a) When a corporation has been completely wound up without court proceedings, a majority of the directors then in office shall sign and verify a certificate of dissolution stating:

(1) That the corporation has been completely wound up.

(2) That its known debts and liabilities have been actually paid, or adequately provided for, or paid or adequately provided for as far as its assets permitted, or that it has incurred no known debts or liabilities, as the case may be. If there are known debts or liabilities for payment of which adequate provision has been made, the certificate shall state what provision has been made, setting forth the name and address of the corporation, person or governmental agency that has assumed or guaranteed the payment, or the name and address of the depositary with which deposit has been made or other information as may be necessary to enable the creditor or other person to whom payment is to be made to appear and claim payment of the debt or liability.

(3) That the corporation is dissolved.

(b) One of the following documents issued by the Attorney General shall be attached to the certificate of dissolution:

(1) A written waiver of objections to the distribution of the corporation’s assets pursuant to subdivision (c) of Section 6716.

(2) A written confirmation that the corporation has no assets.

(c) The certificate of dissolution and attachment described in subdivision (b) shall be filed with the Secretary of State who shall not accept a certificate of dissolution for filing without this attachment. The corporate existence shall cease upon the acceptance of the filing of the certificate of dissolution and attachment by the Secretary of State, except for the purpose of further winding up if needed. However, before any corporation may file a certificate of dissolution it shall file or cause to be filed the certificate of satisfaction of the Franchise Tax Board required by Section 23334 of the Revenue and Taxation Code that all taxes, if any,
imposed under the Bank and Corporation Tax Law have been paid or secured.

CHAPTER 113

An act to amend Section 2816 of the Penal Code, relating to prisons.

[Approved by Governor July 3, 2002. Filed with Secretary of State July 5, 2002.]

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

SECTION 1. Section 2816 of the Penal Code is amended to read:

2816. With the approval of the Department of Finance, there shall be transferred to, or deposited in, the Prison Industries Revolving Fund for purposes authorized by this section, money appropriated from any source including sources other than state appropriations.

Notwithstanding subdivision (i) of Section 2808, the chairman, in consultation with the board, may order any authorized public works project involving construction, renovation, or repair of prison facilities to be performed by inmate labor when the total expenditure does not exceed the project limit established by Section 10108 of the Public Contract Code. Projects entailing expenditure of greater than the project limit established by Section 10108 of the Public Contract Code shall be reviewed and approved by the board.

Money so transferred or deposited shall be available for expenditure by the department for the purposes for which appropriated, contributed or made available, without regard to fiscal years and irrespective of the provisions of Sections 13340 and 16304 of the Government Code. Money transferred or deposited pursuant to this section shall be used only for purposes authorized in this section.

CHAPTER 114

An act to amend Sections 20436, 20437, and 20890.1 of, and to add Section 20432.5 to, the Government Code, relating to retirement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 3, 2002. Filed with Secretary of State July 5, 2002.]
The people of the State of California do enact as follows:

SECTION 1. Section 20432.5 is added to the Government Code, to read:

20432.5. (a) “Local sheriff” also means a regularly employed marshal of Shasta County or of a judicial district of Shasta County. “Local sheriff” also means a regularly employed deputy marshal of Shasta County or of a judicial district of Shasta County, or a district attorney investigator of Shasta or Butte County whose principal duties are to investigate crime and criminal cases, if the deputy marshal or district attorney investigator is a member of the deputy sheriffs’ bargaining unit in the county or the judicial district.

(b) An officer or employee who is a local sheriff as defined in this section is not a county peace officer as defined in Section 20436 or 20437.

(c) This section does not apply to the employees of any contracting agency nor to the agency, unless and until the contracting agency elects to be subject to this section by amendment to its contract with the board, made as provided in Section 20474, or by express provision in its contract with the board.

(d) Within 90 days of notice to the county that a risk pool has been established pursuant to Section 20225.5, which makes available the same service retirement formula provided to local sheriff members in the county, the members included in the local sheriff member classification pursuant to this section shall be included in one of the available risk pools.

SEC. 2. Section 20436 of the Government Code is amended to read:

20436. (a) “County peace officer” means the sheriff and any officer or employee of a sheriff’s office of a contracting agency, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly come within the scope of active law enforcement service even though the employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement service, but not excepting persons employed and qualifying as deputy sheriffs or equal or higher rank irrespective of the duties to which they are assigned.

(b) Any other provision in this part to the contrary notwithstanding, “county peace officer” also includes and means any inspector, investigator, detective, or person with a comparable title, in any district attorney’s office of a contracting agency whose principal duties are to investigate crime and criminal cases and who receives compensation for this service.
(c) “County peace officer” does not include persons employed to perform identification or communication duties other than persons in that employment on August 4, 1972, who elected within 90 days thereafter to be local safety members. A contracting agency may elect by amendment to its contract to include as “county peace officer” all persons who were employed to perform identification or communication duties on August 4, 1972, and who elect within 60 days of the effective date of the contract amendment to be local safety members. The election shall apply to the person’s past as well as future service in the employment held on the effective date but may not apply to service following any subsequent acceptance of appointment to a position other than that held on the effective date. This subdivision does not apply to persons employed and qualified as deputy sheriffs or equal or higher rank.

(d) “County peace officer” does not include any officer or employee who is a local sheriff, as defined in Section 20432 or 20432.5.

SEC. 3. Section 20437 of the Government Code is amended to read:

20437. (a) “County peace officer” shall also include the constable and each regularly employed deputy constable and the marshal and each regularly employed deputy marshal of any judicial district. He or she shall receive credit for service as a peace officer for any time he or she served as constable or deputy constable of a township in the same county.

(b) The provisions of this section do not apply to the employees of a contracting agency nor to the agency, unless and until the contracting agency elects to be subject to this section by amendment to its contract with the board, made as provided in Section 20474, or by express provision in its contract with the board.

(c) “County peace officer” does not include any officer or employee who is a local sheriff, as defined in Section 20432.5.

SEC. 4. Section 20890.1 of the Government Code is amended to read:

20890.1. Past county peace officer service shall be converted to local sheriff service if all of the following apply to the past service:

(a) It was rendered in a position that has subsequently been reclassified as a local sheriff position according to the provisions of Section 20432 or 20432.5.

(b) It was rendered by a current employee of the same agency for which the county peace officer service was performed.

(c) It is credited to an employee who has other local sheriff service credit for service performed with the agency.

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 maintain appropriate levels of county public safety services through the recruitment and retention of law enforcement officers, it is necessary that this act take effect immediately as an urgency statute.

CHAPTER 115

An act to amend Section 22905 of, and to add Section 22909 to, the Education Code, relating to state teachers’ retirement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 3, 2002. Filed with Secretary of State July 5, 2002.]

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

SECTION 1. Section 22905 of the Education Code, as amended by Section 30 of Chapter 1021 of the Statutes of 2000, is amended to read:

22905. (a) Contributions made by a member and member contributions made by an employer pursuant to Section 22903, 22904, or 22909 shall be credited by the board to the individual account of the member.

(b) This section shall become inoperative on July 1, 2002, if the revenue limit cost-of-living adjustment computed by the Superintendent of Public Instruction for the 2001–02 fiscal year is equal to or greater than 3.5 percent. Otherwise this section shall become inoperative on July 1, 2003. As of January 1, 2004, this section is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 22905 of the Education Code, as added by Section 31 of Chapter 1021 of the Statutes of 2000, is amended to read:

22905. (a) Member contributions pursuant to Section 22901, employer contributions pursuant to Section 22903 or 22904, and member contributions made by an employer pursuant to Section 22909 shall be credited to the member’s individual account under the Defined Benefit Program or the Defined Benefit Supplement Program, whichever is applicable pursuant to the provisions of this part.

(b) Member and employer contributions on a member’s compensation under the following circumstances shall be credited to the member’s Defined Benefit Supplement account:

1. Compensation for creditable service that exceeds one year in a school year.
(2) Compensation that is consistent with subdivision (b) of Section 22119.2.

(3) Compensation that is payable for a specified number of times as limited by law, a collective bargaining agreement, or an employment agreement.

(c) A member shall not make voluntary pretax or posttax contributions under the Defined Benefit Supplement Program, except as provided in subdivision (d), nor shall a member redeposit amounts previously distributed based on the balance in the member’s Defined Benefit Supplement account.

(d) Member and employer contributions under the Defined Benefit Supplement Program shall be credited to the accounts of members as of June 30 each year following a determination by the system under the provisions of this part that those contributions should be credited to the Defined Benefit Supplement Program. Contributions to a member’s Defined Benefit Supplement account shall be identified separately from the member’s contributions credited under the Defined Benefit Program.

(e) The provisions of this section shall become operative on July 1, 2002, if the revenue limit cost-of-living adjustment computed by the Superintendent of Public Instruction for the 2001–02 fiscal year is equal to or greater than 3.5 percent. Otherwise this section shall become operative on July 1, 2003.

SEC. 3. Section 22909 is added to the Education Code, to read:

22909. (a) Notwithstanding Sections 22901, 22956, and 23000, an employer may pay all or a portion of the contributions required to be paid by a member of the Defined Benefit Program. Where the member is included in a group or class of employment, the payment shall be for all members in the group or class of employment. The payments shall be credited to member accounts pursuant to Section 22905. The employer shall report contributions to the system as if the member and the employer were paying the contributions in accordance with this part, notwithstanding this section. For purposes of this chapter, the member’s contributions shall be considered to be the percentage of the member’s creditable compensation that would have been paid pursuant to this chapter, notwithstanding this section. Notwithstanding Section 22119.2, contributions paid pursuant to this section may not be included in creditable compensation.

(b) Nothing in this section shall be construed to limit the authority of an employer to periodically increase, reduce, or eliminate the payment by the employer of all or a portion of the contributions required to be paid by members of the Defined Benefit Program, as authorized by this section.

(c) This section shall only apply to an employer that is picking up members’ contributions pursuant to Section 22903 or 22904.
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 provisions of this act to be applicable to employment contracts negotiated during the current year, it is necessary that this act take effect immediately.

CHAPTER 116

An act to amend Section 31529.9 of the Government Code, relating to county employees' retirement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 3, 2002. Filed with Secretary of State July 5, 2002.]

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

SECTION 1. Section 31529.9 of the Government Code is amended to read:

31529.9. (a) In addition to the powers granted by Sections 31529, 31529.5, 31614, and 31732, the board of retirement and the board of investment may contract with the county counsel or with attorneys in private practice or employ staff attorneys for legal services.

(b) Notwithstanding Sections 31529.5 and 31580, the board shall pay, from system assets, reasonable compensation for the legal services.

(c) This section shall be applicable to any county of the 2nd class, 7th class, 14th class, 15th class, or the 16th class as described by Sections 28020, 28023, 28028, 28035, 28036, and 28037.

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:

The San Bernardino County Board of Retirement needs to contract with private firms or employ staff attorneys to serve as general counsel to the agency when it determines that the county counsel cannot provide the board of retirement with legal services due to a conflict of interest.
An act to amend Section 47646 of the Education Code, relating to charter schools.

[Approved by Governor July 3, 2002. Filed with Secretary of State July 5, 2002.]

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

SECTION 1. Section 47646 of the Education Code is amended to read:

47646. (a) A charter school that is deemed to be a public school of the local educational agency that granted the charter for purposes of special education shall participate in state and federal funding for special education in the same manner as any other public school of that local educational agency. A child with disabilities attending the charter school shall receive special education instruction or designated instruction and services, or both, in the same manner as a child with disabilities who attends another public school of that local educational agency. The agency that granted the charter shall ensure that all children with disabilities enrolled in the charter school receive special education and designated instruction and services in a manner that is consistent with their individualized education program and is in compliance with the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and implementing regulations.

(b) In administering the local operation of special education pursuant to the local plan established pursuant to Chapter 3 (commencing with Section 56200) of Part 30, in which the local educational agency that granted the charter participates, the local educational agency that granted the charter shall ensure that each charter school that is deemed a public school for purposes of special education receives an equitable share of special education funding and services consisting of either, or both, of the following:

(1) State and federal funding provided to support special education instruction or designated instruction and services, or both, provided or procured by the charter school that serves pupils enrolled in and attending the charter school. Notwithstanding any other provision of this chapter, a charter school may report average daily attendance to accommodate eligible pupils who require extended year services as part of an individualized education plan.

(2) Any necessary special education services, including administrative and support services and itinerant services, that is provided by the local educational agency on behalf of pupils with disabilities enrolled in the charter school.
(c) In administering the local operation of special education pursuant to the local plan established pursuant to Chapter 3 (commencing with Section 56200) of Part 30, in which the local educational agency that granted the charter participates, the local educational agency that granted the charter shall ensure that each charter school that is deemed a public school for purposes of special education also contributes an equitable share of its charter school block grant funding to support districtwide special education instruction and services, including, but not limited to, special education instruction and services for pupils with disabilities enrolled in the charter school.

CHAPTER 118

An act to amend Section 290.4 of the Penal Code, relating to sex offender registration.

[Approved by Governor July 3, 2002. Filed with Secretary of State July 5, 2002.]

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

SECTION 1. Section 290.4 of the Penal Code is amended to read:

290.4. (a) (1) The Department of Justice shall continually compile information as described in paragraph (2) regarding any person required to register under Section 290 for a conviction of Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; Section 220, except assault to commit mayhem; Section 243.4, provided that the offense is a felony; paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261; Section 264.1; Section 266, provided that the offense is a felony; Section 266c, provided that the offense is a felony; Section 266j; Section 267; Section 269; paragraph (1) of subdivision (b) of Section 286, provided that the offense is a felony; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (1) of subdivision (b) of Section 288a, provided that the offense is a felony; paragraph (2) of subdivision (b), (c), (d), (f), (g), (i), (j), or (k) of Section 288a; Section 288.5; subdivision (a), (b), (d), (e), (f), (g), or (h) of Section 289, provided that the offense is a felony; subdivision (i) or (j) of Section 289; Section 647.6; or the attempted commission of any of these offenses; or the statutory predecessor of any of these offenses or any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in this section. This requirement shall not be applied to a person whose duty to register has been
terminated pursuant to paragraph (5) of subdivision (d) of Section 290, or to a person who has been relieved of his or her duty to register under Section 290.5.

(2) The information shall be categorized by community of residence and ZIP Code. The information shall include the names and known aliases of the person, photograph, a physical description, gender, race, date of birth, the criminal history, and the address, including ZIP Code, in which the person resides, and any other information that the Department of Justice deems relevant, not including information that would identify the victim.

(3) The department shall operate a “900” telephone number that members of the public may call and inquire whether a named individual is listed among those described in this subdivision. The caller shall furnish his or her first name, middle initial, and last name. The department shall ascertain whether a named person reasonably appears to be a person so listed and provide the caller with the information described in paragraph (2), except the department shall not disclose the name or address of a listed person’s employer, or the street address or criminal history of a person listed, except to disclose the ZIP Code area in which the person resides and to describe the specific crimes for which the registrant was required to register. The department shall decide whether the named person reasonably appears to be a person listed, based upon information from the caller providing information that shall include (A) an exact street address, including apartment number, social security number, California driver’s license or identification number, or birth date along with additional information that may include any of the following: name, hair color, eye color, height, weight, distinctive markings, ethnicity; or (B) any combination of at least six of the above listed characteristics if an exact birth date or address is not available. If three of the characteristics provided include ethnicity, hair color, and eye color, a seventh identifying characteristic shall be provided. Any information identifying the victim by name, birth date, address, or relation to the registrant shall be excluded by the department.

(4) (A) On or before July 1, 1997, the department shall provide a CD-ROM or other electronic medium containing the information described in paragraph (2), except the name or address of a listed person’s employer, or the listed person’s street address and criminal history other than the specific crimes for which the person was required to register, for all persons described in paragraph (1) of subdivision (a), and shall update and distribute the CD-ROM or other electronic medium on a monthly basis to the sheriff’s department in each county, municipal police departments of cities with a population of more than 200,000, and each law enforcement agency listed in subparagraph (I) of paragraph (1) of subdivision (n) of Section 290. These law enforcement agencies may
obtain additional copies by purchasing a yearly subscription to the CD-ROM or other electronic medium from the Department of Justice for a yearly subscription fee. The Department of Justice, the sheriff’s departments, and the municipal police departments of cities with a population of more than 200,000 shall make, and the other law enforcement agencies may make, the CD-ROM or other electronic medium available for viewing by the public in accordance with the following: The agency may require that a person applying to view the CD-ROM or other electronic medium express an articulable purpose in order to have access thereto. The applicant shall provide identification in the form of a California driver’s license, California identification card, or military identification card and orders with proof of permanent assignment or attachment to a military command or vessel in California, showing the applicant to be at least 18 years of age. The applicant shall sign a statement, on a form provided by the Department of Justice, stating that the applicant is not a registered sex offender, that he or she understands the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and he or she understands it is unlawful to use information obtained from the CD-ROM or other electronic medium to commit a crime against any registrant or to engage in illegal discrimination or harassment of any registrant. The signed statement shall be maintained in a file in the designated law enforcement agency’s office. A person under 18 years of age may accompany an applicant who is that person’s parent or legal guardian for the purpose of viewing the CD-ROM or other electronic medium.

(B) The records of persons requesting to view the CD-ROM or other electronic medium are confidential, except that a copy of the applications requesting to view the CD-ROM or other electronic medium may be disclosed to law enforcement agencies for law enforcement purposes.

(C) Any information identifying the victim by name, birth date, address, or relationship to the registrant shall be excluded from the CD-ROM or other electronic medium.

(5) (A) The income from the operation of the “900” telephone number shall be deposited in the Sexual Predator Public Information Account, which is hereby established within the Department of Justice for the purpose of the implementation of this section by the Department of Justice, including all actual and reasonable costs related to establishing and maintaining the information described in subdivision (a) and the CD-ROM or other electronic medium described in this subdivision.

(B) The moneys in the Sexual Predator Public Information Account shall consist of income from the operation of the “900” telephone
(b) (1) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to, any other punishment, by a five-year term of imprisonment in the state prison.

(2) Any person who, without authorization, uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than five hundred dollars ($500) and not more than one thousand dollars ($1,000).

(c) The record of the compilation of offender information on each CD-ROM or other electronic medium distributed pursuant to this section shall be used only for law enforcement purposes and the public safety purposes specified in this section and Section 290. This record shall not be distributed or removed from the custody of the law enforcement agency that is authorized to retain it. Information obtained
from this record shall be disclosed to a member of the public only as provided in this section or Section 290, or any other statute expressly authorizing it.

Any person who copies, distributes, discloses, or receives this record or information from it, except as authorized by law, is guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six months, or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision shall not apply to a law enforcement officer who makes a copy as part of his or her official duties in the course of a criminal investigation, court case, or as otherwise authorized by subdivision (n) of Section 290. This subdivision shall not prohibit copying information by handwriting.

Notwithstanding Section 6254.5 of the Government Code, disclosure of information pursuant to this section is not a waiver of exemptions under Chapter 3.5 (commencing with Section 6250) of Title 1 of Division 7 of the Government Code and does not affect other statutory restrictions on disclosure in other situations.

(d) Unauthorized removal or destruction of the CD-ROM or other electronic medium from the offices of any law enforcement agency is a misdemeanor, punishable by imprisonment in a county jail not to exceed one year, or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(e) (1) A person is authorized to use information disclosed pursuant to this section only to protect a person at risk.

This section shall not affect authorized access to, or use of, information pursuant to, among other provisions, Sections 11105 and 11105.3 of this code, Section 226.55 of the Civil Code, Sections 777.5 and 14409.2 of the Financial Code, Sections 1522.01 and 1596.871 of the Health and Safety Code, and Section 432.7 of the Labor Code.

(2) Except as authorized under paragraph (1) or any other provision of law, use of any information that is disclosed pursuant to this section for purposes of relating to any of the following is prohibited:

(A) Health insurance.
(B) Insurance.
(C) Loans.
(D) Credit.
(E) Employment.
(F) Education, scholarships, or fellowships.
(G) Housing or accommodations.
(H) Benefits, privileges, or services provided by any business establishment.

(3) (A) Any use of information disclosed pursuant to this section for purposes other than those provided by paragraph (1) of subdivision (e) or in violation of paragraph (2) of subdivision (e) shall make the user
liable for the actual damages, and any amount that may be determined by a jury or a court sitting without a jury, not exceeding three times the amount of actual damage, and not less than two hundred fifty dollars ($250), and attorney’s fees, exemplary damages, or a civil penalty not exceeding twenty-five thousand dollars ($25,000).

(B) Whenever there is reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of misuse of the “900” telephone number in violation of paragraph (2) of subdivision (e), the Attorney General, any district attorney, or city attorney, or any person aggrieved by the misuse of that number is authorized to bring a civil action in the appropriate court requesting preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or group of persons responsible for the pattern or practice of misuse. The foregoing remedies shall be independent of any other remedies or procedures that may be available to an aggrieved party under other provisions of law, including Part 2 (commencing with Section 43) of Division 1 of the Civil Code.

(f) This section shall not be deemed to authorize the publication, distribution, or disclosure of the address of any person about whom information can be published, distributed, or disclosed pursuant to this section.

(g) Community notification shall be governed by subdivisions (m) and (n) of Section 290.

(h) The Department of Justice shall submit to the Legislature an annual report on the operation of the “900” telephone number required by paragraph (3) of subdivision (a) on July 1, 1996, July 1, 1997, and July 1, 1998. The annual report shall include all of the following:

1. Number of calls received.
2. Amount of income earned per year through operation of the “900” telephone number.
3. A detailed outline of the amount of money expended and the manner in which it was expended for purposes of this section.
4. Number of calls that resulted in an affirmative response and the number of calls that resulted in a negative response with regard to whether a named individual was listed pursuant to subdivision (a).
5. Number of persons listed pursuant to subdivision (a).
6. A summary of the success of the “900” telephone number program based upon selected factors.

(i) Any law enforcement agency and employees of any law enforcement agency shall be immune from liability for good faith conduct under this section. For the purposes of this section, “law enforcement agency” means the Attorney General of California, every district attorney, the Department of Corrections, the Department of the
Youth Authority, and every state or local agency expressly authorized by statute to investigate or prosecute law violators.

(j) On or before July 1, 2000, the Department of Justice shall make a report to the Legislature concerning the changes to the operation of the “900” telephone number program made by the amendments to this section by Chapter 908 of the Statutes of 1996. The report shall include all of the following:

(1) Number of calls received by county.

(2) Number of calls that resulted in an affirmative response and the number of calls that resulted in a negative response with regard to whether a named individual was listed pursuant to subdivision (a).

(3) Number of persons listed pursuant to subdivision (a).

(4) Statistical information concerning prosecutions of persons for misuse of the “900” telephone number program, including the outcomes of those prosecutions.

(5) A summary of the success of the “900” telephone number based upon selected factors.

(k) The registration and public notification provisions of this section are applicable to every person described in these sections, without regard to when his or her crimes were committed or his or her duty to register pursuant to this section arose, and to every offense described in these sections, regardless of when it was committed.

(l) No later than December 31, 1998, the Department of Justice shall prepare an informational pamphlet that shall be mailed to any member of the public who makes an inquiry using the “900” telephone number required by this section and who provides an address. The pamphlet shall provide basic information concerning appropriate steps parents, guardians, and other responsible adults can take to ensure a child is safe from a suspected child molester, including, but not limited to, how to identify suspicious activity by an adult, common facts and myths about child molesters, and how to obtain additional help and information. A notice to callers to the “900” telephone number that they will receive the pamphlet, if an address is provided, shall be included in the preamble required by this section.

(m) On or before July 1, 2001, and every year thereafter, the Department of Justice shall make a report to the Legislature concerning the operation of this section.

(n) This section shall remain operative only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.
An act to add Chapter 2.90 (commencing with Section 7286.47) to Part 1.7 of Division 2 of the Revenue and Taxation Code, relating to taxation.

[Became law without Governor’s signature. Filed with Secretary of State July 9, 2002.]

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

SECTION 1. Chapter 2.90 (commencing with Section 7286.47) is added to Part 1.7 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 2.90. REDDING TRANSACTIONS AND USE TAX

7286.47. (a) Subject to subdivision (b), the City of Redding may levy a transactions and use tax at a rate of 0.25 percent, if an ordinance proposing that tax is approved by a two-thirds vote of all the members of the city council and the tax is approved by a majority vote of the qualified voters of the city voting in an election on the issue.

(b) (1) Any transactions and use tax levied under this section shall be levied pursuant to the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)).

(2) The net revenues derived from a tax levied under this section shall be expended for general governmental purposes.

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the uniquely difficult fiscal pressures being experienced by the City of Redding in providing essential services and funding for city programs and operations.

CHAPTER 120

An act to amend Section 32296.8 of the Education Code, relating to school safety.

[Approved by Governor July 9, 2002. Filed with Secretary of State July 9, 2002.]
The people of the State of California do enact as follows:

SECTION 1. Section 32296.8 of the Education Code is amended to read:

32296.8. Nothing in this article may be construed to require a school district or a county office of education to hire police officers as a condition of receiving a grant under the School Community Policing Partnership Grant Program. Grant funds may not be used to provide funding for school resource officer positions in existence on or before January 1, 2003.

CHAPTER 121

An act to amend Sections 113823 and 114332.1 of, to add Section 114332.7 to, to add a heading as Article 13.5 (commencing with Section 114332) to Chapter 4 of Part 7 of Division 104 of, and to repeal the heading of Chapter 13.5 (commencing with Section 114332) of Part 7 of, Division 104 of, the Health and Safety Code, relating to food.

[Approved by Governor July 9, 2002. Filed with Secretary of State July 9, 2002.]

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

SECTION 1. Section 113823 of the Health and Safety Code is amended to read:

113823. “Nonprofit charitable temporary food facility” means either of the following:

(a) A temporary food facility, as defined in Section 113895, that is conducted and operated by a corporation incorporated pursuant to the Nonprofit Corporation Law (Div. 2 (commencing with Section 5000), Title 1, Corp. C.), that is exempt from taxation pursuant to paragraphs (1) to (10), inclusive, and paragraph (19) of Section 501(c) of the Internal Revenue Code and Section 23701d of the Revenue and Taxation Code.

(b) An established club or organization of students that operates under the authorization of a school or educational facility.

SEC. 2. The heading of Chapter 13.5 (commencing with Section 114332) of Part 7 of Division 104 of the Health and Safety Code is repealed.

SEC. 3. A heading is added as Article 13.5 (commencing with Section 114332) to Chapter 4 of Part 7 of Division 104 of the Health and Safety Code, to read:
Article 13.5. Nonprofit Charitable Temporary Food Facilities

SEC. 4. Section 114332.1 of the Health and Safety Code is amended to read:

114332.1. Nonprofit charitable temporary food facilities may operate up to four times annually. These four time periods shall not exceed 72 hours each.

SEC. 5. Section 114332.7 is added to the Health and Safety Code, to read:

114332.7. Nothing in this article shall prevent a local enforcement agency from performing inspections of, or requiring permits for, any nonprofit charitable temporary food facility to ensure compliance with food safety provisions contained in this chapter.

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 122

An act to add Section 1596.8535 to the Health and Safety Code, relating to childcare facilities.

[Approved by Governor July 9, 2002. Filed with Secretary of State July 9, 2002.]

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

SECTION 1. Section 1596.8535 is added to the Health and Safety Code, to read:

1596.8535. (a) Notwithstanding any other provision of law, the department shall conduct any authorized inspection, announced site visit, or unannounced site visit of any child daycare facility only during the period beginning one hour before and ending one hour after the facility’s normal business hours or at any time childcare services are being provided. This subdivision shall not apply to the investigation of any complaint received by the department if the department determines that an inspection or site visit outside the time period beginning one hour
before, and ending one hour after, the facility’s normal operating hours is necessary to protect the health or safety of any child in the facility.

(b) If a facility is closed for an extended period of time, the department may not perform any inspection, announced site visit, or unannounced site visit until the facility has reopened, subject to subdivision (a).

(c) The department shall develop regulations establishing a procedure by which a licensee of any childcare facility may notify the licensing agency of a planned period of inactivity in the operation of the facility. The department shall also develop regulations establishing a procedure by which the department shall determine if it will grant inactive status to a licensee after receiving this notice from the licensee.

(d) If the department grants inactive status to a licensee pursuant to subdivision (c), the license shall not be valid during the period of inactivity in the operation of the facility, the licensee shall be responsible for the payment of annual licensing fees and for maintaining licensing standards upon reactivation of operation of the facility, and the department’s timeframe for required site visits shall be adjusted accordingly. However, if the department believes the licensee is operating during a period in which the department has granted inactive status to the licensee, the department may enter the facility for any inspection permitted by law.

(e) This section shall be operative July 1, 2003.

CHAPTER 123

An act to amend Section 56.10 of the Civil Code, relating to coroner’s reports.

[Approved by Governor July 9, 2002. Filed with Secretary of State July 9, 2002.]

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

SECTION 1. Section 56.10 of the Civil Code, as added by Section 1.16 of Chapter 1068 of the Statutes of 2000, is amended to read:

56.10. (a) No provider of health care, health care service plan, or contractor shall disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization, except as provided in subdivision (b) or (c).
(b) A provider of health care, a health care service plan, or a contractor shall disclose medical information if the disclosure is compelled by any of the following:

(1) By a court pursuant to an order of that court.

(2) By a board, commission, or administrative agency for purposes of adjudication pursuant to its lawful authority.

(3) By a party to a proceeding before a court or administrative agency pursuant to a subpoena, subpoena duces tecum, notice to appear served pursuant to Section 1987 of the Code of Civil Procedure, or any provision authorizing discovery in a proceeding before a court or administrative agency.

(4) By a board, commission, or administrative agency pursuant to an investigative subpoena issued under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(5) By an arbitrator or arbitration panel, when arbitration is lawfully requested by either party, pursuant to a subpoena duces tecum issued under Section 1282.6 of the Code of Civil Procedure, or any other provision authorizing discovery in a proceeding before an arbitrator or arbitration panel.

(6) By a search warrant lawfully issued to a governmental law enforcement agency.

(7) By the patient or the patient’s representative pursuant to Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(8) By a coroner, when requested in the course of an investigation by the coroner’s office for the purpose of identifying the decedent or locating next of kin, or when investigating deaths that may involve public health concerns, organ or tissue donation, child abuse, elder abuse, suicides, poisonings, accidents, sudden infant death, suspicious deaths, unknown deaths, or criminal deaths, or when otherwise authorized by the decedent’s representative. Medical information requested by the coroner under this paragraph shall be limited to information regarding the patient who is the decedent and who is the subject of the investigation and shall be disclosed to the coroner without delay upon request.

(9) When otherwise specifically required by law.

(c) A provider of health care, or a health care service plan may disclose medical information as follows:

(1) The information may be disclosed to providers of health care, health care service plans, contractors, or other health care professionals or facilities for purposes of diagnosis or treatment of the patient. This includes, in an emergency situation, the communication of patient information by radio transmission or other means between emergency
medical personnel at the scene of an emergency, or in an emergency medical transport vehicle, and emergency medical personnel at a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(2) The information may be disclosed to an insurer, employer, health care service plan, hospital service plan, employee benefit plan, governmental authority, contractor, or any other person or entity responsible for paying for health care services rendered to the patient, to the extent necessary to allow responsibility for payment to be determined and payment to be made. If (A) the patient is, by reason of a comatose or other disabling medical condition, unable to consent to the disclosure of medical information and (B) no other arrangements have been made to pay for the health care services being rendered to the patient, the information may be disclosed to a governmental authority to the extent necessary to determine the patient’s eligibility for, and to obtain, payment under a governmental program for health care services provided to the patient. The information may also be disclosed to another provider of health care or health care service plan as necessary to assist the other provider or health care service plan in obtaining payment for health care services rendered by that provider of health care or health care service plan to the patient.

(3) The information may be disclosed to any person or entity that provides billing, claims management, medical data processing, or other administrative services for providers of health care or health care service plans or for any of the persons or entities specified in paragraph (2). However, no information so disclosed shall be further disclosed by the recipient in any way that would be violative of this part.

(4) The information may be disclosed to organized committees and agents of professional societies or of medical staffs of licensed hospitals, licensed health care service plans, professional standards review organizations, independent medical review organizations and their selected reviewers, utilization and quality control peer review organizations as established by Congress in Public Law 97-248 in 1982, contractors, or persons or organizations insuring, responsible for, or defending professional liability that a provider may incur, if the committees, agents, health care service plans, organizations, reviewers, contractors, or persons are engaged in reviewing the competence or qualifications of health care professionals or in reviewing health care services with respect to medical necessity, level of care, quality of care, or justification of charges.

(5) The information in the possession of any provider of health care or health care service plan may be reviewed by any private or public body responsible for licensing or accreditating the provider of health care or health care service plan. However, no patient-identifying medical
information may be removed from the premises except as expressly permitted or required elsewhere by law, nor shall that information be further disclosed by the recipient in any way that would violate this part.

(6) The information may be disclosed to the county coroner in the course of an investigation by the coroner’s office when requested for all purposes not included in paragraph (8) of subdivision (b).

(7) The information may be disclosed to public agencies, clinical investigators, including investigators conducting epidemiologic studies, health care research organizations, and accredited public or private nonprofit educational or health care institutions for bona fide research purposes. However, no information so disclosed shall be further disclosed by the recipient in any way that would disclose the identity of any patient or be violative of this part.

(8) A provider of health care or health care service plan that has created medical information as a result of employment-related health care services to an employee conducted at the specific prior written request and expense of the employer may disclose to the employee’s employer that part of the information that:

(A) Is relevant in a lawsuit, arbitration, grievance, or other claim or challenge to which the employer and the employee are parties and in which the patient has placed in issue his or her medical history, mental or physical condition, or treatment, provided that information may only be used or disclosed in connection with that proceeding.

(B) Describes functional limitations of the patient that may entitle the patient to leave from work for medical reasons or limit the patient’s fitness to perform his or her present employment, provided that no statement of medical cause is included in the information disclosed.

(9) Unless the provider of health care or health care service plan is notified in writing of an agreement by the sponsor, insurer, or administrator to the contrary, the information may be disclosed to a sponsor, insurer, or administrator of a group or individual insured or uninsured plan or policy that the patient seeks coverage by or benefits from, if the information was created by the provider of health care or health care service plan as the result of services conducted at the specific prior written request and expense of the sponsor, insurer, or administrator for the purpose of evaluating the application for coverage or benefits.

(10) The information may be disclosed to a health care service plan by providers of health care that contract with the health care service plan and may be transferred among providers of health care that contract with the health care service plan, for the purpose of administering the health care service plan. Medical information may not otherwise be disclosed by a health care service plan except in accordance with the provisions of this part.
(11) Nothing in this part shall prevent the disclosure by a provider of health care or a health care service plan to an insurance institution, agent, or support organization, subject to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code, of medical information if the insurance institution, agent, or support organization has complied with all requirements for obtaining the information pursuant to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code.

(12) The information relevant to the patient’s condition and care and treatment provided may be disclosed to a probate court investigator engaged in determining the need for an initial conservatorship or continuation of an existent conservatorship, if the patient is unable to give informed consent, or to a probate court investigator, probation officer, or domestic relations investigator engaged in determining the need for an initial guardianship or continuation of an existent guardianship.

(13) The information may be disclosed to an organ procurement organization or a tissue bank processing the tissue of a decedent for transplantation into the body of another person, but only with respect to the donating decedent, for the purpose of aiding the transplant. For the purpose of this paragraph, the terms “tissue bank” and “tissue” have the same meaning as defined in Section 1635 of the Health and Safety Code.

(14) The information may be disclosed when the disclosure is otherwise specifically authorized by law, such as the voluntary reporting, either directly or indirectly, to the federal Food and Drug Administration of adverse events related to drug products or medical device problems.

(15) Basic information, including the patient’s name, city of residence, age, sex, and general condition, may be disclosed to a state or federally recognized disaster relief organization for the purpose of responding to disaster welfare inquiries.

(16) The information may be disclosed to a third party for purposes of encoding, encrypting, or otherwise anonymizing data. However, no information so disclosed shall be further disclosed by the recipient in any way that would be violative of this part, including the unauthorized manipulation of coded or encrypted medical information that reveals individually identifiable medical information.

(17) For purposes of disease management programs and services as defined in Section 1399.901 of the Health and Safety Code, information may be disclosed as follows: (A) to any entity contracting with a health care service plan or the health care service plan’s contractors to monitor or administer care of enrollees for a covered benefit, provided that the disease management services and care are authorized by a treating physician, or (B) to any disease management organization, as defined in
Section 1399.900 of the Health and Safety Code, that complies fully with the physician authorization requirements of Section 1399.902 of the Health and Safety Code, provided that the health care service plan or its contractor provides or has provided a description of the disease management services to a treating physician or to the health care service plan’s or contractor’s network of physicians. Nothing in this paragraph shall be construed to require physician authorization for the care or treatment of the adherents of any well-recognized church or religious denomination who depend solely upon prayer or spiritual means for healing in the practice of the religion of that church or denomination.

(d) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no provider of health care, health care service plan contractor, or corporation and its subsidiaries and affiliates shall intentionally share, sell, or otherwise use any medical information for any purpose not necessary to provide health care services to the patient.

(e) Except to the extent expressly authorized by the patient or enrollee or subscriber or as provided by subdivisions (b) and (c), no contractor or corporation and its subsidiaries and affiliates shall further disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan or insurer or self-insured employer received under this section to any person or entity that is not engaged in providing direct health care services to the patient or his or her provider of health care or health care service plan or insurer or self-insured employer.

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

CHAPTER 124

An act to amend Section 1550 of the Evidence Code, relating to admissibility of evidence.

[Approved by Governor July 9, 2002. Filed with Secretary of State July 9, 2002.]

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

SECTION 1. Section 1550 of the Evidence Code is amended to read:

1550. (a) If made and preserved as a part of the records of a business, as defined in Section 1270, in the regular course of that business, the following types of evidence of a writing are as admissible as the writing itself:
(1) A nonerasable optical image reproduction or any other reproduction of a public record by a trusted system, as defined in Section 12168.7 of the Government Code, if additions, deletions, or changes to the original document are not permitted by the technology.

(2) A photostatic copy or reproduction.

(3) A microfilm, microcard, or miniature photographic copy, reprint, or enlargement.

(4) Any other photographic copy or reproduction, or an enlargement thereof.

(b) The introduction of evidence of a writing pursuant to subdivision (a) does not preclude admission of the original writing if it is still in existence. A court may require the introduction of a hard copy printout of the document.

SEC. 2. This act shall become operative on the date the Secretary of State adopts uniform standards for storing and recording permanent and nonpermanent documents in electronic media, as required by Section 12168.7 of the Government Code.

CHAPTER 125

An act to add Section 11010 to the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 9, 2002. Filed with Secretary of State July 9, 2002.]

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

SECTION 1. Section 11010 is added to the Penal Code, to read:

11010. (a) The Department of Justice shall adopt standards and guidelines regarding the handling of potential evidence arising out of the testing of substances that are suspected to be related to activities of terrorists, to be used by laboratories operated by or contracting with the Department of Justice, any state agency, or any local agency, and by any other laboratory in the state the department determines may test any material that may become evidence in a criminal prosecution for any crime committed in the commission of terrorist activities.

(b) The standards and guidelines adopted pursuant to this section shall include information on issues that may arise in the chain of custody and the employment of controls that are suitable for preserving evidence for use in the prosecution of a crime.

(c) In developing the standards for adoption pursuant to this section, the Department of Justice shall consult with appropriate laboratories of
public agencies used by law enforcement agencies, law enforcement agencies, and the State Department of Health Services.

(d) The Department of Justice shall make the guidelines and standards adopted pursuant to this section available to the appropriate laboratories specified in subdivision (a).

(e) The provisions of this section shall be accomplished to the extent that funds are available.

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

In order to make timely preparations for the collection and use of evidence in the prosecution of terrorist activities, it is necessary that this act take effect immediately.

CHAPTER 126


[Approved by Governor July 9, 2002. Filed with Secretary of State July 9, 2002.]

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

SECTION 1. Section 1170.1 of the Penal Code is amended to read:

1170.1. (a) Except as otherwise provided by law, and subject to Section 654, when any person is convicted of two or more felonies, whether in the same proceeding or court or in different proceedings or courts, and whether by judgment rendered by the same or by a different court, and a consecutive term of imprisonment is imposed under Sections 669 and 1170, the aggregate term of imprisonment for all these convictions shall be the sum of the principal term, the subordinate term, and any additional term imposed for applicable enhancements for prior convictions, prior prison terms, and Section 12022.1. The principal term shall consist of the greatest term of imprisonment imposed by the court for any of the crimes, including any term imposed for applicable specific enhancements. The subordinate term for each consecutive offense shall consist of one-third of the middle term of imprisonment prescribed for each other felony conviction for which a consecutive term of imprisonment is imposed, and shall include one-third of the term
imposed for any specific enhancements applicable to those subordinate offenses.

(b) If a person is convicted of two or more violations of kidnapping, as defined in Section 207, involving separate victims, the subordinate term for each consecutive offense of kidnapping shall consist of the full middle term and shall include the full term imposed for specific enhancements applicable to those subordinate offenses.

(c) In the case of any person convicted of one or more felonies committed while the person is confined in a state prison or is subject to reimprisonment for escape from custody and the law either requires the terms to be served consecutively or the court imposes consecutive terms, the term of imprisonment for all the convictions that the person is required to serve consecutively shall commence from the time the person would otherwise have been released from prison. If the new offenses are consecutive with each other, the principal and subordinate terms shall be calculated as provided in subdivision (a). This subdivision shall be applicable in cases of convictions of more than one offense in the same or different proceedings.

(d) When the court imposes a prison sentence for a felony pursuant to Section 1170 or subdivision (b) of Section 1168, the court shall also impose, in addition and consecutive to the offense of which the person has been convicted, the additional terms provided for any applicable enhancements. If an enhancement is punishable by one of three terms, the court shall impose the middle term unless there are circumstances in aggravation or mitigation, and state the reasons for its sentence choice, other than the middle term, on the record at the time of sentencing. The court shall also impose any other additional term that the court determines in its discretion or as required by law shall run consecutive to the term imposed under Section 1170 or subdivision (b) of Section 1168. In considering the imposition of the additional term, the court shall apply the sentencing rules of the Judicial Council.

(e) All enhancements shall be alleged in the accusatory pleading and either admitted by the defendant in open court or found to be true by the trier of fact.

(f) When two or more enhancements may be imposed for being armed with or using a dangerous or deadly weapon or a firearm in the commission of a single offense, only the greatest of those enhancements shall be imposed for that offense. This subdivision shall not limit the imposition of any other enhancements applicable to that offense, including an enhancement for the infliction of great bodily injury.

(g) When two or more enhancements may be imposed for the infliction of great bodily injury on the same victim in the commission of a single offense, only the greatest of those enhancements shall be imposed for that offense. This subdivision shall not limit the imposition
of any other enhancements applicable to that offense, including an enhancement for being armed with or using a dangerous or deadly weapon or a firearm.

(h) For any violation of an offense specified in Section 667.6, the number of enhancements that may be imposed shall not be limited, regardless of whether the enhancements are pursuant to this section, Section 667.6, or some other provision of law. Each of the enhancements shall be a full and separately served term.

SEC. 2. Section 12022 of the Penal Code is amended to read:

12022. (a) (1) Except as provided in subdivisions (c) and (d), any person who is armed with a firearm in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for one year, unless the arming is an element of that offense. This additional term shall apply to any person who is a principal in the commission of a felony or attempted felony if one or more of the principals is armed with a firearm, whether or not the person is personally armed with a firearm.

(2) Except as provided in subdivision (c), and notwithstanding subdivision (d), if the firearm is an assault weapon, as defined in Section 12276 or Section 12276.1, or a machinegun, as defined in Section 12200, the additional and consecutive term described in this subdivision shall be three years whether or not the arming is an element of the offense of which the person was convicted. The additional term provided in this paragraph shall apply to any person who is a principal in the commission of a felony or attempted felony if one or more of the principals is armed with an assault weapon or machinegun whether or not the person is personally armed with an assault weapon or machinegun.

(b) (1) Any person who personally uses a deadly or dangerous weapon in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for one year, unless use of a deadly or dangerous weapon is an element of that offense.

(2) If the person described in paragraph (1) has been convicted of carjacking or attempted carjacking, the additional term shall be one, two, or three years.

(3) When a person is found to have personally used a deadly or dangerous weapon in the commission of a felony or attempted felony as provided in this subdivision and the weapon is owned by that person, the court shall order that the weapon be deemed a nuisance and disposed of in the manner provided in Section 12028.

(c) Notwithstanding the enhancement set forth in subdivision (a), any person who is personally armed with a firearm in the commission of a violation or attempted violation of Section 11351, 11351.5, 11352, 11366.5, 11366.6, 11378, 11378.5, 11379, 11379.5, or 11379.6 of the
Health and Safety Code, shall be punished by an additional and consecutive term of imprisonment in the state prison for three, four, or five years.

(d) Notwithstanding the enhancement set forth in subdivision (a), any person who is not personally armed with a firearm who, knowing that another principal is personally armed with a firearm, is a principal in the commission of an offense or attempted offense specified in subdivision (c), shall be punished by an additional and consecutive term of imprisonment in the state prison for one, two, or three years.

(e) For purposes of imposing an enhancement under Section 1170.1, the enhancements under this section shall count as one, single enhancement.

(f) Notwithstanding any other provision of law, the court may strike the additional punishment for the enhancements provided in subdivision (c) or (d) in an unusual case where the interests of justice would best be served, if the court specifies on the record and enters into the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

SEC. 3. Section 12022.5 of the Penal Code is amended to read:

12022.5. (a) Except as provided in subdivision (b), any person who personally uses a firearm in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for 3, 4, or 10 years, unless use of a firearm is an element of that offense.

(b) Notwithstanding subdivision (a), any person who personally uses an assault weapon, as specified in Section 12276 or Section 12276.1, or a machinegun, as defined in Section 12200, in the commission of a felony or attempted felony, shall be punished by an additional and consecutive term of imprisonment in the state prison for 5, 6, or 10 years.

(c) Notwithstanding Section 1385 or any other provisions of law, the court shall not strike an allegation under this section or a finding bringing a person within the provisions of this section.

(d) Notwithstanding the limitation in subdivision (a) relating to being an element of the offense, the additional term provided by this section shall be imposed for any violation of Section 245 if a firearm is used, or for murder if the killing is perpetrated by means of shooting a firearm from a motor vehicle, intentionally at another person outside of the vehicle with the intent to inflict great bodily injury or death.

(e) When a person is found to have personally used a firearm, an assault weapon, or a machinegun in the commission of a felony or attempted felony as provided in this section and the firearm, assault weapon, or machinegun is owned by that person, the court shall order that the firearm be deemed a nuisance and disposed of in the manner provided in Section 12028.
(f) For purposes of imposing an enhancement under Section 1170.1, the enhancements under this section shall count as one, single enhancement.

SEC. 4. Section 12022.53 of the Penal Code is amended to read:
12022.53. (a) This section applies to the following felonies:
(1) Section 187 (murder).
(2) Section 203 or 205 (mayhem).
(3) Section 207, 209, or 209.5 (kidnapping).
(4) Section 211 (robbery).
(5) Section 215 (carjacking).
(6) Section 220 (assault with intent to commit a specified felony).
(7) Subdivision (d) of Section 245 (assault with a firearm on a peace officer or firefighter).
(8) Section 261 or 262 (rape).
(9) Section 264.1 (rape or sexual penetration in concert).
(10) Section 286 (sodomy).
(11) Section 288 or 288.5 (lewd act on a child).
(12) Section 288a (oral copulation).
(13) Section 289 (sexual penetration).
(14) Section 4500 (assault by a life prisoner).
(15) Section 4501 (assault by a prisoner).
(16) Section 4503 (holding a hostage by a prisoner).
(17) Any felony punishable by death or imprisonment in the state prison for life.
(18) Any attempt to commit a crime listed in this subdivision other than an assault.

(b) Notwithstanding any other provision of law, any person who is convicted of a felony specified in subdivision (a), and who in the commission of that felony personally uses a firearm, shall be punished by an additional and consecutive term of imprisonment in the state prison for 10 years. The firearm need not be operable or loaded for this enhancement to apply.

(c) Notwithstanding any other provision of law, any person who is convicted of a felony specified in subdivision (a), and who in the commission of that felony intentionally and personally discharges a firearm, shall be punished by an additional and consecutive term of imprisonment in the state prison for 20 years.

(d) Notwithstanding any other provision of law, any person who is convicted of a felony specified in subdivision (a), Section 246, or subdivision (c) or (d) of Section 12034, and who in the commission of that felony intentionally and personally discharges a firearm and proximately causes great bodily injury, as defined in Section 12022.7, or death, to any person other than an accomplice, shall be punished by
an additional and consecutive term of imprisonment in the state prison for 25 years to life.

(e) (1) The enhancements provided in this section shall apply to any person who is a principal in the commission of an offense if both of the following are pled and proved:
   (A) The person violated subdivision (b) of Section 186.22.
   (B) Any principal in the offense committed any act specified in subdivision (b), (c), or (d).

   (2) An enhancement for participation in a criminal street gang pursuant to Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1 shall not be imposed on a person in addition to an enhancement imposed pursuant to this subdivision, unless the person personally used or personally discharged a firearm in the commission of the offense.

(f) Only one additional term of imprisonment under this section shall be imposed per person for each crime. If more than one enhancement per person is found true under this section, the court shall impose upon that person the enhancement that provides the longest term of imprisonment. An enhancement involving a firearm specified in Section 12021.5, 12022, 12022.3, 12022.4, 12022.5, or 12022.55 shall not be imposed on a person in addition to an enhancement imposed pursuant to this section. An enhancement for great bodily injury as defined in Section 12022.7, 12022.8, or 12022.9 shall not be imposed on a person in addition to an enhancement imposed pursuant to subdivision (d).

(g) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person found to come within the provisions of this section.

(h) Notwithstanding Section 1385 or any other provision of law, the court shall not strike an allegation under this section or a finding bringing a person within the provisions of this section.

(i) The total amount of credits awarded pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 or pursuant to Section 4019 or any other provision of law shall not exceed 15 percent of the total term of imprisonment imposed on a defendant upon whom a sentence is imposed pursuant to this section.

(j) For the penalties in this section to apply, the existence of any fact required under subdivision (b), (c), or (d) shall be alleged in the information or indictment and either admitted by the defendant in open court or found to be true by the trier of fact. When an enhancement specified in this section has been admitted or found to be true, the court shall impose punishment pursuant to this section rather than imposing punishment authorized under any other provision of law, unless another provision of law provides for a greater penalty or a longer term of imprisonment.
(k) When a person is found to have used or discharged a firearm in the commission of an offense that includes an allegation pursuant to this section and the firearm is owned by that person, a coparticipant, or a coconspirator, the court shall order that the firearm be deemed a nuisance and disposed of in the manner provided in Section 12028.

(l) The enhancements specified in this section shall not apply to the lawful use or discharge of a firearm by a public officer, as provided in Section 196, or by any person in lawful self-defense, lawful defense of another, or lawful defense of property, as provided in Sections 197, 198, and 198.5.

SEC. 5. Section 12022.55 of the Penal Code is amended to read:

12022.55. Notwithstanding Section 12022.5, any person who, with the intent to inflict great bodily injury or death, inflicts great bodily injury, as defined in Section 12022.7, or causes the death of a person, other than an occupant of a motor vehicle, as a result of discharging a firearm from a motor vehicle in the commission of a felony or attempted felony, shall be punished by an additional and consecutive term of imprisonment in the state prison for 5, 6, or 10 years.

SEC. 6. Section 12022.7 of the Penal Code is amended to read:

12022.7. (a) Any person who personally inflicts great bodily injury on any person other than an accomplice in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for three years.

(b) Any person who personally inflicts great bodily injury on any person other than an accomplice in the commission of a felony or attempted felony which causes the victim to become comatose due to brain injury or to suffer paralysis of a permanent nature, shall be punished by an additional and consecutive term of imprisonment in the state prison for five years. As used in this subdivision, “paralysis” means a major or complete loss of motor function resulting from injury to the nervous system or to a muscular mechanism.

(c) Any person who personally inflicts great bodily injury on a person who is 70 years of age or older, other than an accomplice, in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for five years.

(d) Any person who personally inflicts great bodily injury on a child under the age of five years in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for four, five, or six years.

(e) Any person who personally inflicts great bodily injury under circumstances involving domestic violence in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for three, four, or
five years. As used in this subdivision, “domestic violence” has the meaning provided in subdivision (b) of Section 13700.

(f) As used in this section, “great bodily injury” means a significant or substantial physical injury.

(g) This section shall not apply to murder or manslaughter or a violation of Section 451 or 452. Subdivisions (a), (b), (c), and (d) shall not apply if infliction of great bodily injury is an element of the offense.

(h) The court shall impose the additional terms of imprisonment under either subdivision (a), (b), (c), or (d), but may not impose more than one of those terms for the same offense.

SEC. 7. Section 12022.9 of the Penal Code is amended to read:

12022.9. Any person who, during the commission of a felony or attempted felony, knows or reasonably should know that the victim is pregnant, and who, with intent to inflict injury, and without the consent of the woman, personally inflicts injury upon a pregnant woman that results in the termination of the pregnancy shall be punished by an additional and consecutive term of imprisonment in the state prison for five years. The additional term provided in this subdivision shall not be imposed unless the fact of that injury is charged in the accusatory pleading and admitted or found to be true by the trier of fact.

Nothing in this section shall be construed as affecting the applicability of subdivision (a) of Section 187.

SEC. 8. The amendments to subdivisions (b) and (c) of Section 1170.1 of the Penal Code, in Section 1 of this act, are intended to be technical amendments only and are not intended to make any substantive changes to those subdivisions.

SEC. 9. The amendment to subdivision (g) of Section 1170.1 of the Penal Code, in Section 1 of this act, is intended to clarify the application of that subdivision and conform the language of that subdivision to the decision of the Court of Appeal in People v. Arndt (1999) 76 Cal.App.4th 387, 398-399 (Discussion, Section 3).

SEC. 10. In repealing the specific provisions relating to enhancements being imposed consecutively in paragraph (1) of subdivision (a), paragraph (1) of subdivision (b), and subdivision (c) of Section 12022 of the Penal Code, in Section 2 of this act, paragraph (1) of subdivision (a) and paragraph (2) of subdivision (b) of Section 12022.5 of the Penal Code, in Section 3 of this act, subdivisions (b), (c), and (d) of Section 12022.53 of the Penal Code, in Section 4 of this act, Section 12022.55 of the Penal Code, in Section 5 of this act, subdivisions (a), (b), (c), (d), and (e) of Section 12022.7 of the Penal Code, in Section 6 of this act, and in subdivision (a) of Section 12022.9 of the Penal Code, in Section 7 of this act, it is the intent of the Legislature that the amended general provision of subdivision (d) of Section 1170.1 of the Penal Code shall apply to the enhancements provided in those sections.
SEC. 11. In repealing the specific provisions relating to the middle
term being imposed for enhancements in subdivisions (c) and (d) of
Section 12022 of the Penal Code, in Section 2 of this act, and in
subdivisions (d) and (e) of Section 12022.7 of the Penal Code, in Section
6 of this act, it is the intent of the Legislature that the amended general
provision of subdivision (d) of Section 1170.1 of the Penal Code shall
apply to the enhancements provided in those sections.

SEC. 12. (a) In repealing the enhancement in paragraph (2) of
subdivision (a) of Section 12022.5 of the Penal Code, in Section 3 of this
act, the Legislature recognizes that the conduct punished under that
provision is now subject to greater punishment under subdivision (b) of
Section 12022.53 of the Penal Code.

(b) In repealing the enhancement in paragraph (1) of subdivision (b)
of Section 12022.5 of the Penal Code, in Section 3 of this act, the
Legislature recognizes that the conduct punished under that provision is
now subject to greater punishment under subdivision (d) of Section
12022.53 of the Penal Code.

(c) In repealing the enhancement in subdivision (c) of Section
12022.5 of the Penal Code, in Section 3 of this act, the Legislature
recognizes that the conduct punished under that provision is now subject
to the same punishment under subdivision (a) of Section 12022.5 of the
Penal Code.

(d) The repeal of those provisions of Section 12022.5 of the Penal
Code described in subdivisions (a), (b), and (c) shall not be given any
retroactive application, and shall not be construed to benefit any person
who committed a crime or received an enhancement or any other
punishment while those provisions were in effect.

SEC. 13. The amendments to subdivision (c) of Section 12022.5 of
the Penal Code, in Section 3 of this act, to prohibit striking the
enhancement, are intended to be declaratory of existing law as contained
16 Cal.4th 90.

SEC. 14. The amendments to subdivision (d) of Section 12022.5 of
the Penal Code, in Section 3 of this act, are intended to be declaratory
of existing law, and to conform the language of the statute to the decision
of the California Supreme Court in People v. Ledesma (1997) 16 Cal.4th
90, and the decisions of the Court of Appeal in People v. Moore (1986)
(1996) 51 Cal.App.4th 1329, 1332-1334 (Section II), and People v.

SEC. 15. In repealing the specific provision relating to pleading
enhancements in subdivision (g) of Section 12022.7 of the Penal Code,
in Section 6 of this act, it is not the intent of the Legislature to alter the
application of the general provision of subdivision (e) of Section 1170.1 of the Penal Code to the enhancements provided in that section.

SEC. 16. In repealing the enhancements in paragraphs (1) and (2) of subdivision (b) of Section 12022.9 of the Penal Code, in Section 7 of this act, the Legislature recognizes that the conduct punished under those provisions is now subject to greater punishment under subdivision (d) of Section 12022.53 of the Penal Code. The repeal of those provisions of Section 12022.9 of the Penal Code shall not be given any retroactive application, and shall not be construed to benefit any person who committed a crime or received an enhancement or any other punishment while those provisions were in effect.

SEC. 17. With respect to the enhancements repealed by this act, the Legislature recognizes that the criminal conduct punished by those enhancements may be punished under other provisions of law. It is not the intent of the Legislature to limit the discretion of prosecuting authorities in charging that criminal conduct under any of the remaining enhancement provisions.

CHAPTER 127

An act to amend Sections 4000.1 and 5751.5 of the Vehicle Code, relating to registration of vehicles.

[Approved by Governor July 9, 2002. Filed with Secretary of State July 9, 2002.]

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

SECTION 1. Section 4000.1 of the Vehicle Code is amended to read:

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

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

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

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

(1) The initial application for transfer is submitted within the 90-day validity period of a smog certificate as specified in Section 44015 of the Health and Safety Code.

(2) The transferor is either the parent, grandparent, sibling, child, grandchild, or spouse of the transferee.

(3) A vehicle registered to a sole proprietorship is transferred to the proprietor as owner.

(4) The transfer is between companies whose principal business is leasing vehicles, if there is no change in the lessee or operator of the vehicle or between the lessor and the person who has been, for at least one year, the lessee’s operator of the vehicle.

(5) The transfer is between the lessor and lessee of the vehicle, if there is no change in the lessee or operator of the vehicle.

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

(7) Beginning January 1, 2003, the motor vehicle is 30 or more model-years old.

(e) The State Air Resources Board, under Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, may exempt designated classifications of motor vehicles from subdivision (a) as it deems necessary, and shall notify the department of that action.

(f) Subdivision (a) does not apply to a motor vehicle when an additional individual is added as a registered owner of the vehicle.

SEC. 2. Section 5751.5 of the Vehicle Code is amended to read:

5751.5. (a) Upon transfer of the title or interest of the registered owner of a motor vehicle that is subject to Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, if no certificate of compliance or certificate of noncompliance is submitted to the department pursuant to the exemptions described in paragraph (1) of subdivision (d) of Section 4000.1, the transferor of that vehicle shall sign and deliver to the transferee, upon completion of the transaction, the original copy of a statement, under penalty of perjury, that he or she has not modified the emissions system of the vehicle and does not have any personal knowledge of anyone else modifying the system in a manner that causes the emission system to fail to qualify for the issuance of a
certificate of compliance pursuant to Section 44015 of the Health and Safety Code. The transferor shall keep a duplicate copy of the statement delivered to the transferee pursuant to this section. The department shall prescribe and make available to transferors the necessary forms to comply with this subdivision.

(b) Any form prescribed by the department pursuant to subdivision (a) shall contain the following statement and a space for the signatures of the transferor and transferee at the end of the statement:

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“WARNING TO THE BUYER

“A certificate of compliance was submitted to the Department of Motor Vehicles in conjunction with an application for the renewal of registration of this vehicle within the past 90 days. However, at present, you may be purchasing a vehicle that may not be in compliance with specified emission standards.

“By signing this statement, you acknowledge that the seller is not required to provide you with an additional certificate of compliance prior to the completion of this transaction.

“You may have this vehicle tested at a licensed smog check station prior to completion of this transaction to verify compliance. If the vehicle passes the test, you shall be responsible for the costs of the test. If the vehicle fails the test, the seller is obligated to reimburse you the cost of having the vehicle tested and, without expense to you, must have the vehicle repaired to comply with specified emission standards prior to completion of this transaction.

____________________  ______________________
(Transferor)          (Date)
____________________  ______________________
(Transferee)          (Date)"
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(c) Any sale of a motor vehicle with regard to which the transferor is found to have committed perjury, as described in subdivision (a), may be rescinded by the transferee within 60 days of the date that the transferee obtained knowledge of the perjury. The transferee shall be entitled to recover all consideration paid to the transferor and any interest from the date of sale. In addition, the court may, upon motion, award reasonable attorney’s fees to the prevailing plaintiff.
An act to amend Section 123148 of the Health and Safety Code, relating to health records.

[Approved by Governor July 9, 2002. Filed with Secretary of State July 9, 2002.]

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

SECTION 1. Section 123148 of the Health and Safety Code is amended to read:

123148. (a) Notwithstanding any other provision of law, a health care professional at whose request a test is performed shall provide or arrange for the provision of the results of a clinical laboratory test to the patient who is the subject of the test if so requested by the patient, in oral or written form. The results shall be conveyed in plain language and in oral or written form, except the results may be conveyed in electronic form if requested by the patient and if deemed most appropriate by the health care professional who requested the test.

(b) (1) Consent of the patient to receive his or her laboratory results by Internet posting or other electronic means shall be obtained in a manner consistent with the requirements of Section 56.10 or 56.11 of the Civil Code. In the event that a health care professional arranges for the provision of test results by Internet posting or other electronic manner, the results shall be delivered to a patient in a reasonable time period, but only after the results have been reviewed by the health care professional. Access to clinical laboratory test results shall be restricted by the use of a secure personal identification number when the results are delivered to a patient by Internet posting or other electronic manner.

(2) Nothing in paragraph (1) shall prohibit direct communication by Internet posting or the use of other electronic means to convey clinical laboratory test results by a treating health care professional who ordered the test for his or her patient or by a health care professional acting on behalf of, or with the authorization of, the treating health care professional who ordered the test.

(c) When a patient requests to receive his or her laboratory test results by Internet posting, the health care professional shall advise the patient of any charges that may be assessed directly to the patient or insurer for the service and that the patient may call the health care professional for a more detailed explanation of the laboratory test results when delivered.

(d) The electronic provision of test results under this section shall be in accordance with any applicable federal law governing privacy and security of electronic personal health records. However, any state statute, if enacted, that governs privacy and security of electronic
personal health records, shall apply to test results under this section and shall prevail over federal law if federal law permits.

(e) The test results to be reported to the patient pursuant to this section shall be recorded in the patient’s medical record, and shall be reported to the patient within a reasonable time period after the test results are received at the offices of the health care professional who requested the test.

(f) Notwithstanding subdivisions (a) and (b), none of the following clinical laboratory test results and any other related results shall be conveyed to a patient by Internet posting or other electronic means:

1. HIV antibody test.
2. Presence of antigens indicating a hepatitis infection.
3. Abusing the use of drugs.
4. Test results related to routinely processed tissues, including skin biopsies, Pap smear tests, products of conception, and bone marrow aspirations for morphological evaluation, if they reveal a malignancy.

(g) Patient identifiable test results and health information that have been provided under this section shall not be used for any commercial purpose without the consent of the patient, obtained in a manner consistent with the requirements of Section 56.11 of the Civil Code.

(h) Any third party to whom laboratory test results are disclosed pursuant to this section shall be deemed a provider of administrative services, as that term is used in paragraph (3) of subdivision (c) of Section 56.10 of the Civil Code, and shall be subject to all limitations and penalties applicable to that section.

(i) A patient may not be required to pay any cost, or be charged any fee, for electing to receive his or her laboratory results in any manner other than by Internet posting or other electronic form.

(j) A patient or his or her physician may revoke any consent provided under this section at any time and without penalty, except to the extent that action has been taken in reliance on that consent.

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CHAPTER 129

An act to add Chapter 1.5 (commencing with Section 14025) to Division 14 of the Elections Code, relating to voting rights.

[Approved by Governor July 9, 2002. Filed with Secretary of State July 9, 2002.]
The people of the State of California do enact as follows:

SECTION 1. Chapter 1.5 (commencing with Section 14025) is added to Division 14 of the Elections Code, to read:

CHAPTER 1.5. RIGHTS OF VOTERS

14025. This act shall be known and may be cited as the California Voting Rights Act of 2001.

14026. As used in this chapter:
(a) "At-large method of election" means any of the following methods of electing members to the governing body of a political subdivision:
   (1) One in which the voters of the entire jurisdiction elect the members to the governing body.
   (2) One in which the candidates are required to reside within given areas of the jurisdiction and the voters of the entire jurisdiction elect the members to the governing body.
   (3) One which combines at-large elections with district-based elections.
(b) "District-based elections" means a method of electing members to the governing body of a political subdivision in which the candidate must reside within an election district that is a divisible part of the political subdivision and is elected only by voters residing within that election district.
(c) "Political subdivision" means a geographic area of representation created for the provision of government services, including, but not limited to, a city, a school district, a community college district, or other district organized pursuant to state law.
(d) "Protected class" means a class of voters who are members of a race, color or language minority group, as this class is referenced and defined in the federal Voting Rights Act (42 U.S.C. Sec. 1973 et seq.).
(e) "Racially polarized voting" means voting in which there is a difference, as defined in case law regarding enforcement of the federal Voting Rights Act (42 U.S.C. Sec. 1973 et seq.), in the choice of candidates or other electoral choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate. The methodologies for estimating group voting behavior as approved in applicable federal cases to enforce the federal Voting Rights Act (42 U.S.C. Sec. 1973 et seq.) to establish racially polarized voting may be used for purposes of this section to prove that elections are characterized by racially polarized voting.
14027. An at-large method of election may not be imposed or applied in a manner that impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election, as a result of the dilution or the abridgment of the rights of voters who are members of a protected class, as defined pursuant to Section 14026.

14028. (a) A violation of Section 14027 is established if it is shown that racially polarized voting occurs in elections for members of the governing body of the political subdivision or in elections incorporating other electoral choices by the voters of the political subdivision. Elections conducted prior to the filing of an action pursuant to Section 14027 and this section are more probative to establish the existence of racially polarized voting than elections conducted after the filing of the action.

(b) The occurrence of racially polarized voting shall be determined from examining results of elections in which at least one candidate is a member of a protected class or elections involving ballot measures, or other electoral choices that affect the rights and privileges of members of a protected class. One circumstance that may be considered in determining a violation of Section 14027 and this section is the extent to which candidates who are members of a protected class and who are preferred by voters of the protected class, as determined by an analysis of voting behavior, have been elected to the governing body of a political subdivision that is the subject of an action based on Section 14027 and this section. In multiseat at-large election districts, where the number of candidates who are members of a protected class is fewer than the number of seats available, the relative groupwide support received by candidates from members of a protected class shall be the basis for the racial polarization analysis.

(c) The fact that members of a protected class are not geographically compact or concentrated may not preclude a finding of racially polarized voting, or a violation of Section 14027 and this section, but may be a factor in determining an appropriate remedy.

(d) Proof of an intent on the part of the voters or elected officials to discriminate against a protected class is not required.

(e) Other factors such as the history of discrimination, the use of electoral devices or other voting practices or procedures that may enhance the dilutive effects of at-large elections, denial of access to those processes determining which groups of candidates will receive financial or other support in a given election, the extent to which members of a protected class bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process, and the use of overt or subtle racial appeals in political campaigns are probative, but not
necessary factors to establish a violation of Section 14027 and this section.

14029. Upon a finding of a violation of Section 14027 and Section 14028, the court shall implement appropriate remedies, including the imposition of district-based elections, that are tailored to remedy the violation.

14030. In any action to enforce Section 14027 and Section 14028, the court shall allow the prevailing plaintiff party, other than the state or political subdivision thereof, a reasonable attorney’s fee consistent with the standards established in Serrano v. Priest (1977) 20 Cal.3d 25, 48-49, and litigation expenses including, but not limited to, expert witness fees and expenses as part of the costs. Prevailing defendant parties shall not recover any costs, unless the court finds the action to be frivolous, unreasonable, or without foundation.

14031. This chapter is enacted to implement the guarantees of Section 7 of Article I and of Section 2 of Article II of the California Constitution.

14032. Any voter who is a member of a protected class and who resides in a political subdivision where a violation of Sections 14027 and 14028 is alleged may file an action pursuant to those sections in the superior court of the county in which the political subdivision is located.

CHAPTER  130

An act to amend Section 32657 of the Streets and Highways Code, relating to parking authorities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 9, 2002. Filed with Secretary of State July 9, 2002.]

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

SECTION 1. Section 32657 of the Streets and Highways Code is amended to read:

32657. (a) Three of the members first appointed shall be designated by the mayor, with the approval of the legislative body, to serve for terms of one, two, and three years, respectively, from a date specified by the mayor in their appointments, and two shall be designated to serve for terms of four years from that date. Thereafter, members shall be appointed for a term of four years. All vacancies occurring during a term shall be filled for the unexpired term. A member shall hold office until his or her successor has been appointed and has qualified.
(b) Notwithstanding subdivision (a), in any charter city having a parking and traffic commission created by the city’s charter, the mayor, with the approval of the legislative body, may require the members of that commission to serve ex officio as members of the parking authority and to exercise all the powers and duties thereof. Upon the appointment of persons as commissioners of the city’s parking and traffic commission, those commissioners shall replace the members of a parking authority appointed pursuant to subdivision (a) and shall succeed to the powers and duties of those members as provided in this chapter.

(c) Notwithstanding subdivisions (a) and (b) or Section 32656, in any charter city having a board of directors of a public transportation agency created by the city’s charter, five or more members of the board of directors may serve ex officio as members of the parking authority and exercise all the powers and duties thereof during their terms as members of the board of directors. Persons appointed as members of the public transportation agency’s board of directors may replace the members of a parking authority appointed pursuant to subdivision (a) or (b) and may succeed to the powers and duties of those members as provided in the city’s charter.

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:

The charter of the City and County San Francisco requires it to appoint ex officio members by July 1, 2002, and it may not be possible for it to do so unless state law is changed prior to that date.

CHAPTER 131

An act to amend Sections 4830 and 4848 of, and to add Section 4854.5 to, the Business and Professions Code, relating to veterinary medicine.

[Approved by Governor July 9, 2002. Filed with Secretary of State July 9, 2002.]

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

SECTION 1. Section 4830 of the Business and Professions Code is amended to read:

4830. This chapter does not apply to:

(a) Veterinarians while serving in any armed branch of the military service of the United States or the United States Department of
Agriculture while actually engaged and employed in their official capacity.

(b) Regularly licensed veterinarians in actual consultation from other states.

(c) Regularly licensed veterinarians actually called from other states to attend cases in this state, but who do not open an office or appoint a place to do business within this state.

(d) Veterinarians employed by the University of California while engaged in the performance of duties in connection with the College of Agriculture, the Agricultural Experiment Station, the School of Veterinary Medicine or the agricultural extension work of the university or employed by the Western University of Health Sciences while engaged in the performance of duties in connection with the College of Veterinary Medicine or the agricultural extension work of the university.

(e) Students in the School of Veterinary Medicine of the University of California or the College of Veterinary Medicine of the Western University of Health Sciences who participate in diagnosis and treatment as part of their educational experience, including those in off-campus educational programs under the direct supervision of a licensed veterinarian in good standing, as defined in paragraph (1) of subdivision (b) of Section 4848, appointed by the University of California, Davis, or the Western University of Health Sciences.

(f) A veterinarian who is employed by the Meat and Poultry Inspection Branch of the California Department of Food and Agriculture while actually engaged and employed in his or her official capacity. A person exempt under this subdivision shall not otherwise engage in the practice of veterinary medicine unless he or she is issued a license by the board.

(g) Unlicensed personnel employed by the Department of Food and Agriculture or the United States Department of Agriculture when in the course of their duties they are directed by a veterinarian supervisor to conduct an examination, obtain biological specimens, apply biological tests, or administer medications or biological products as part of government disease or condition monitoring, investigation, control, or eradication activities.

SEC. 2. Section 4848 of the Business and Professions Code is amended to read:

4848. (a) (1) The board shall, by means of examination, ascertain the professional qualifications of all applicants for licenses to practice veterinary medicine in this state and shall issue a license to every person whom it finds to be qualified. No license shall be issued to anyone who has not demonstrated his or her competency by examination.

(2) The examination shall consist of each of the following:

(A) A licensing examination that is administered on a national basis.
(B) A California state board examination.

(C) An examination concerning those statutes and regulations of the Veterinary Medicine Practice Act administered by the board. The examination shall be administered by mail and provided to applicants within 10 to 20 days of eligibility determination. The board shall have 10 to 20 days from the date of receipt to process the examination and provide candidates with the results of the examination. The applicant shall certify that he or she personally completed the examination. Any false statement is a violation subject to Section 4831. University of California and Western University of Health Sciences veterinary medical students who have successfully completed a board approved course on veterinary law and ethics covering the Veterinary Medicine Practice Act shall be exempt from this provision.

(3) The examinations may be given at the same time or at different times as determined by the board. For examination purposes, the board may make contractual arrangements on a sole source basis with organizations furnishing examination material as it may deem desirable and shall be exempt from Section 10115 of the Public Contract Code.

(4) The licensing examination may be waived by the board in any case in which it determines that the applicant has taken and passed an examination for licensure in another state substantially equivalent in scope and subject matter to the licensing examination last given in California before the determination is made, and has achieved a score on the out-of-state examination at least equal to the score required to pass the licensing examination administered in California.

(5) Nothing in this chapter shall preclude the board from permitting a person who has completed a portion of his or her educational program, as determined by the board, in a veterinary college recognized by the board under Section 4846 to take any examination or any part thereof prior to satisfying the requirements for application for a license established by Section 4846.

(b) The board shall waive the examination requirements of subdivision (a), and issue a temporary license valid for one year to an applicant to practice veterinary medicine under the supervision of another licensed California veterinarian in good standing if the applicant meets all of the following requirements and would not be denied issuance of a license by any other provision of this code:

(1) The applicant holds a current valid license in good standing in another state, Canadian province, or United States territory and has practiced clinical veterinary medicine for a minimum of four years full time within the five years immediately preceding filing an application for licensure in this state. Experience obtained while participating in an American Veterinary Medical Association (AVMA) accredited
institution’s internship, residency, or specialty board training program shall be valid for meeting the minimum experience requirement.

The term “in good standing” means that an applicant under this section:

(A) Is not currently under investigation nor has been charged with an offense for any act substantially related to the practice of veterinary medicine by any public agency, nor entered into any consent agreement or subject to an administrative decision that contains conditions placed by an agency upon an applicant’s professional conduct or practice, including any voluntary surrender of license, nor been the subject of an adverse judgment resulting from the practice of veterinary medicine that the board determines constitutes evidence of a pattern of incompetence or negligence.

(B) Has no physical or mental impairment related to drugs, alcohol, or has not been found mentally incompetent by a physician so that the applicant is unable to undertake the practice of veterinary medicine in a manner consistent with the safety of a patient or the public.

(2) At the time of original licensure, the applicant passed the national licensing requirement in veterinary science with a passing score or scores on the examination or examinations equal to or greater than the passing score required to pass the national licensing examination or examinations administered in this state.

(3) The applicant has either graduated from a veterinary college recognized by the board under Section 4846 or possesses a certificate issued by the Educational Commission for Foreign Veterinary Graduates (ECFVG).

(4) The applicant passes an examination concerning the statutes and regulations of the Veterinary Medicine Practice Act, administered by the board, pursuant to subparagraph (C) of paragraph (2) of subdivision (a).

(5) The applicant agrees to complete an approved educational curriculum on regionally specific and important diseases and conditions during the period of temporary licensure. The board, in consultation with the California Veterinary Medical Association (CVMA), shall approve educational curricula that cover appropriate regionally specific and important diseases and conditions that are common in California. The curricula shall focus on small and large animal diseases consistent with the current proportion of small and large animal veterinarians practicing in the state. The approved curriculum shall not exceed 30 hours of educational time. The board shall approve a curriculum as soon as practical, but not later than June 1, 1999. The approved curriculum may be offered by multiple providers so that it is widely accessible to candidates licensed under this subdivision.

(c) Upon receipt of acknowledgment of successful completion of the requirements set forth in subdivision (b), the board shall issue a license
to the applicant. Any applicant who does not meet the requirements of subdivision (b) shall take a California state board examination as specified in subparagraph (B) of paragraph (2) of subdivision (a).

SEC. 3. Section 4854.5 is added to the Business and Professions Code, to read:

4854.5. (a) Every off-campus educational program site shall display in a conspicuous place a consumer notification specifying that the veterinary facilities are also being used for diagnosis and treatment of animals by graduate students enrolled in a veterinary medicine program.

(b) Notwithstanding Section 4831, or any other provision of law, a violation of subdivision (a) shall not be a crime.

CHAPTER 132

An act to amend Section 40131 of the Health and Safety Code, relating to air resources.

[Approved by Governor July 9, 2002. Filed with Secretary of State July 9, 2002.]

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

SECTION 1. Section 40131 of the Health and Safety Code is amended to read:

40131. (a) Each district shall adopt its annual budget in accordance with the following requirements:

(1) The district shall prepare, and make available to the public at least 30 days prior to public hearing, a summary of its budget and any supporting documents, including, but not limited to, a schedule of fees to be imposed by the district to fund its programs.

(2) The district shall notify each person who was subject to fees imposed by the district in the preceding year of the availability of the information described in paragraph (1).

(3) (A) The district shall notice and hold a public hearing for the exclusive purpose of reviewing its budget and of providing the public with the opportunity to comment upon the proposed district budget.

(B) The public hearing required to be held pursuant to this paragraph shall be held separately, by a period of not less than two weeks, from the hearing at which the district adopts its budget.

(C) In districts with a population of 1,000,000 persons or less, the hearing required under this paragraph may include other matters in addition to those required under subparagraph (A).
(b) This article does not apply to the south coast district, which shall be governed by Article 8 (commencing with Section 40520) of Chapter 5.5.

CHAPTER 133

An act to repeal and add Section 2805 of the Fish and Game Code, relating to endangered species.

[Approved by Governor July 9, 2002. Filed with Secretary of State July 9, 2002.]

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

SECTION 1. Section 2805 of the Fish and Game Code, as added by Section 2 of Chapter 4 of the Statutes of 2002, is repealed.

SEC. 2. Section 2805 is added to the Fish and Game Code, to read:

2805. The definitions in this section govern the construction of this chapter:
(a) “Adaptive management” means to use the results of new information gathered through the monitoring program of the plan and from other sources to adjust management strategies and practices to assist in providing for the conservation of covered species.
(b) “Candidate species” has the same meaning as defined in Section 2068.
(c) “Changed circumstances” are reasonably foreseeable circumstances that could affect a covered species or geographic area covered by the plan.
(d) “Conserve,” “conserving,” and “conservation” mean to use, and the use of, methods and procedures within the plan area that are necessary to bring any covered species to the point at which the measures provided pursuant to Chapter 1.5 (commencing with Section 2050) are not necessary, and for covered species that are not listed pursuant to Chapter 1.5 (commencing with Section 2050), to maintain or enhance the condition of a species so that listing pursuant to Chapter 1.5 (commencing with Section 2050) will not become necessary.
(e) “Covered species” means those species, both listed pursuant to Chapter 1.5 (commencing with Section 2050) and nonlisted, conserved and managed under an approved natural community conservation plan and that may be authorized for take.
(f) “Department assurance” means the department’s commitment pursuant to subdivision (f) of Section 2820.
(g) “Monitoring program” means a program within an approved natural community conservation plan that provides periodic evaluations of monitoring results to assess the adequacy of the mitigation and conservation strategies or activities and to provide information to direct the adaptive management program. The monitoring program shall, to the extent practicable, also be used to meet the monitoring requirements of Section 21081.6 of the Public Resources Code. A monitoring program includes all of the following:

(1) Surveys to determine the status of biological resources addressed by the plan, including covered species.

(2) Periodic accountings and assessment of authorized take.

(3) Progress reports on all of the following matters:

(A) Establishment of habitat reserves or other measures that provide equivalent conservation of covered species and providing funding where applicable.

(B) Compliance with the plan and the implementation agreement by the wildlife agencies, local governments, and landowners who have responsibilities under the plan.

(C) Measurements to determine if mitigation and conservation measures are being implemented roughly proportional in time and extent to the impact on habitat or covered species authorized under the plan.

(D) Evaluation of the effectiveness of the plan in meeting the conservation objectives of the plan.

(E) Maps of land use changes in the plan area that may affect habitat values or covered species.

(4) A schedule for conducting monitoring activities.

(h) “Natural community conservation plan” or “plan” means the plan prepared pursuant to a planning agreement entered into in accordance with Section 2810. The plan shall identify and provide for those measures necessary to conserve and manage natural biological diversity within the plan area while allowing compatible and appropriate economic development, growth, and other human uses.

(i) “Person” has the same meaning as defined in Section 711.2.

(j) (1) “Plan participant,” prior to approval of a natural community conservation plan and execution of an implementation agreement, means a signatory to the planning agreement.

(2) Upon approval of a natural community conservation plan and execution of an implementation agreement, “plan participant” means the permittees and any local agency that is a signatory to the implementing agreement.

(k) “Unforeseen circumstances” means changes affecting one or more species, habitat, natural community, or the geographic area covered by a conservation plan that could not reasonably have been
anticipated at the time of plan development, and that result in a substantial adverse change in the status of one or more covered species.

(l) "Wildlife" has the same meaning as defined in Section 711.2.

(m) "Wildlife agencies" means the department and one or both of the following:
(1) United States Fish and Wildlife Service.
(2) National Marine Fisheries Service.

CHAPTER 134

An act to add Article 5 (commencing with Section 11199) to Chapter 2 of Title 1 of Part 4 of the Penal Code, relating to animal cruelty.

[Approved by Governor July 10, 2002. Filed with Secretary of State July 11, 2002.]

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

SECTION 1. Article 5 (commencing with Section 11199) is added to Chapter 2 of Title 1 of Part 4 of the Penal Code, to read:

Article 5. Reports of Animal Cruelty, Abuse, or Neglect

11199. (a) Any employee of a county child or adult protective services agency, while acting in his or her professional capacity or within the scope of his or her employment, who has knowledge of or observes an animal whom he or she knows or reasonably suspects has been the victim of cruelty, abuse, or neglect, may report the known or reasonably suspected animal cruelty, abuse, or neglect to the entity or entities that investigate reports of animal cruelty, abuse, and neglect in that county.

(b) The report may be made within two working days of receiving the information concerning the animal by facsimile transmission of a written report presented in the form described in subdivision (e) or by telephone if all of the information that is required to be provided pursuant to subdivision (e) is furnished. In cases where an immediate response may be necessary in order to protect the health and safety of the animal or others, the report may be made by telephone as soon as possible.

(c) Nothing in this section shall be construed to impose a duty to investigate known or reasonably suspected animal cruelty, abuse, or neglect.
(d) As used in this section, the terms “animal,” “cruelty,” “abuse,” “neglect,” “reasonable suspicion,” and “owner” are defined as follows:

1. “Animal” includes every dumb creature.
2. “Cruelty,” “abuse,” and “neglect” include every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.
3. “Reasonable suspicion” means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect animal cruelty, abuse, or neglect.
4. “Owner” means any person who is the legal owner, keeper, harborer, possessor, or the actual custodian of an animal. “Owner” includes corporations as well as individuals.

(e) Reports made pursuant to this section may be made on a preprinted form prepared by the entity or entities that investigate reports of animal cruelty, abuse, and neglect in that county that includes the definitions contained in subdivision (e), and a space for the reporter to include each of the following:

1. His or her name and title.
2. His or her business address and telephone number.
3. The name, if known, of the animal owner or custodian.
4. The location of the animal and the premises on which the known or reasonably suspected animal cruelty, abuse, or neglect took place.
5. A description of the location of the animal and the premises.
6. Type and numbers of animals involved.
8. The date, time, and a description of the observation or incident which led the reporter to suspect animal cruelty, abuse, or neglect and any other information the reporter believes may be relevant.

(f) When two or more employees of a county child or adult protective services agency are present and jointly have knowledge of known or reasonably suspected animal cruelty, abuse, or neglect, and where there is agreement among them, a report may be made by one person by mutual agreement. Any reporter who has knowledge that the person designated to report has failed to do so may thereafter make the report.

CHAPTER 135

An act to amend Section 18838 of the Revenue and Taxation Code, relating to taxation.
The people of the State of California do enact as follows:

SECTION 1. Section 18838 of the Revenue and Taxation Code is amended to read:

18838. All money transferred to the Lupus Foundation of America, California Chapters Fund, upon appropriation by the Legislature, shall be allocated as follows:

(a) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(b) (1) To the State Department of Health Services for allocation on an equal basis to all California-based operating chapters of the Lupus Foundation of America.

(2) The funding shall be used by the California based operating chapters of the Lupus Foundation of America for lupus education and awareness and to provide research grants to develop and advance the understanding, causes, techniques, and modalities effective in the prevention, care, treatment, and cure of lupus.

(c) Funds may not be used for the department’s administrative costs.

CHAPTER 136

An act to add Section 48918.6 to the Education Code, relating to pupils.

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

SECTION 1. Section 48918.6 is added to the Education Code, to read:

48918.6. In addition to any other immunity that may exist, any testimony provided by a pupil witness in an expulsion hearing conducted pursuant to this article is expressly deemed to be a communication protected by subdivision (b) of Section 47 of the Civil Code.
An act to amend Section 6072 of the Business and Professions Code, relating to attorneys.

[Approved by Governor July 10, 2002. Filed with Secretary of State July 11, 2002.]

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

SECTION 1. Section 6072 of the Business and Professions Code is amended to read:

6072. (a) A contract with the state for legal services that exceeds fifty thousand dollars ($50,000) shall include a certification by the contracting law firm that the firm agrees to make a good faith effort to provide, during the duration of the contract, a minimum number of hours of pro bono legal services during each year of the contract equal to the lesser of either (1) 30 multiplied by the number of full-time attorneys in the firm’s offices in the state, with the number of hours prorated on an actual day basis for any contract period of less than a full year or (2) 10 percent of its contract with the state. “Ten percent of the contract” shall mean the number of hours equal to 10 percent of the contract amount divided by the average billing rate of the firm.

(b) Failure to make a good faith effort may be cause for nonrenewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the state for legal services. If a firm fails to provide the hours of pro bono legal services set forth in its certification, the following factors shall be considered in determining whether the firm made a good faith effort:

(1) The actual number of hours of pro bono legal services provided by the firm during the term of the contract.

(2) The firm’s efforts to obtain pro bono legal work from legal services programs, pro bono programs, and other relevant communities or groups.

(3) The firm’s history of providing pro bono legal services, or other activities of the firm that evidence a good faith effort to provide pro bono legal services, such as the adoption of a pro bono policy or the creation of a pro bono committee.

(4) The types of pro bono legal services provided, including the quantity and complexity of cases as well as the nature of the relief sought.

(5) The extent to which the failure to provide the hours of pro bono legal services set forth in the certification is the result of extenuating circumstances unforeseen at the time of the certification.
(c) In awarding a contract with the state for legal services that exceeds fifty thousand dollars ($50,000), the awarding department shall consider the efforts of a potential contracting law firm to provide, during the 12-month period prior to award of the contract, the minimum number of hours of pro bono legal services described in subdivision (a). Other things being equal, the awarding department shall award a contract for legal services to firms that have provided, during the 12-month period prior to award of the contract, the minimum number of hours of pro bono legal services described in subdivision (a).

(d) As used in this section, “pro bono legal services” means the provision of legal services either:

(1) Without fee or expectation of fee to either:
   (A) Persons who are indigent or of limited means.
   (B) Charitable, religious, civic, community, governmental, and educational organizations in matters designed primarily to address the economic, health, and social needs of persons who are indigent or of limited means.

(2) At no fee or substantially reduced fee to groups or organizations seeking to secure or protect civil rights, civil liberties, or public rights.

(e) Nothing in this section shall subject a contracting law firm that fails to provide the minimum number of hours of pro bono legal services described in subdivision (a) to civil or criminal liability, nor shall that failure be grounds for invalidating an existing contract for legal services.

(f) This article shall not apply to state contracts with, or appointments made by the judiciary of, an attorney, law firm, or organization for the purposes of providing legal representation to low- or middle-income persons, in either civil, criminal, or administrative matters.

(g) This article shall not apply to contracts entered into between the state and an attorney or law firm if the legal services contracted for are to be performed outside the State of California.

(h) The provisions of this article shall become operative on January 1, 2003.

CHAPTER  138

An act to repeal Sections 1071 and 1073 of the Civil Code, to amend Sections 221, 230, 250, 6103, 6205, 6409, 11640, 21101, 21102, 21103, 21104, 21105, 21107, 21108, 21109, 21110, 21111, 21112, 21114, 21115, 21117, 21118, 21120, 21121, 21122, 21131, 21133, 21134, 21135, 21139, and 21140 of, to repeal Sections 21106, 21113, 21116, 21117, 21118, and 21138 of, and to repeal and add Section 21132 to, the Probate Code, relating to construction of instruments.
The people of the State of California do enact as follows:

SECTION 1. Section 1071 of the Civil Code is repealed.
SEC. 2. Section 1073 of the Civil Code is repealed.
SEC. 3. Section 221 of the Probate Code is amended to read:
221. (a) This chapter does not apply in any case where Section 103, 6211, or 6403 applies.
(b) This chapter does not apply in the case of a trust, deed, or contract of insurance, or any other situation, where (1) provision is made dealing explicitly with simultaneous deaths or deaths in a common disaster or otherwise providing for distribution of property different from the provisions of this chapter or (2) provision is made requiring one person to survive another for a stated period in order to take property or providing for a presumption as to survivorship that results in a distribution of property different from that provided by this chapter.
SEC. 4. Section 230 of the Probate Code is amended to read:
230. A petition may be filed under this chapter for any one or more of the following purposes:
(a) To determine for the purposes of Section 103, 220, 222, 223, 224, 6211, 6242, 6243, 6403, 21109, 21110 or other provision of this code whether one person survived another.
(b) To determine for the purposes of Section 673 whether issue of an appointee survived the donee.
(c) To determine for the purposes of Section 24611 of the Education Code whether a person has survived in order to receive benefits payable under the system.
(d) To determine for the purposes of Section 21509 of the Government Code whether a person has survived in order to receive money payable under the system.
SEC. 5. Section 250 of the Probate Code is amended to read:
250. (a) A person who feloniously and intentionally kills the decedent is not entitled to any of the following:
(1) Any property, interest, or benefit under a will of the decedent, or a trust created by or for the benefit of the decedent or in which the decedent has an interest, including any general or special power of appointment conferred by the will or trust on the killer and any nomination of the killer as executor, trustee, guardian, or conservator or custodian made by the will or trust.
(2) Any property of the decedent by intestate succession.
(3) Any of the decedent’s quasi-community property the killer would otherwise acquire under Section 101 or 102 upon the death of the decedent.

(4) Any property of the decedent under Part 5 (commencing with Section 5700) of Division 5.

(5) Any property of the decedent under Part 3 (commencing with Section 6500) of Division 6.

(b) In the cases covered by subdivision (a):

(1) The property interest or benefit referred to in paragraph (1) of subdivision (a) passes as if the killer had predeceased the decedent and Section 21110 does not apply.

(2) Any property interest or benefit referred to in paragraph (1) of subdivision (a) which passes under a power of appointment and by reason of the death of the decedent passes as if the killer had predeceased the decedent, and Section 673 not apply.

(3) Any nomination in a will or trust of the killer as executor, trustee, guardian, conservator, or custodian which becomes effective as a result of the death of the decedent shall be interpreted as if the killer had predeceased the decedent.

SEC. 6. Section 6103 of the Probate Code is amended to read:

6103. Except as otherwise specifically provided, Chapter 1 (commencing with Section 6100), Chapter 2 (commencing with Section 6110), Chapter 3 (commencing with Section 6120), Chapter 4 (commencing with Section 6130), Chapter 6 (commencing with Section 6200), and Chapter 7 (commencing with Section 6300) of this division, and Part 1 (commencing with Section 21101) of Division 11, do not apply where the testator died before January 1, 1985, and the law applicable prior to January 1, 1985, continues to apply where the testator died before January 1, 1985.

SEC. 7. Section 6205 of the Probate Code is amended to read:

6205. “Descendants” mean children, grandchildren, and their lineal descendants of all generations, with the relationship of parent and child at each generation being determined as provided in Section 21115. A reference to “descendants” in the plural includes a single descendant where the context so requires.

SEC. 8. Section 6409 of the Probate Code is amended to read:

6409. (a) If a person dies intestate as to all or part of his or her estate, property the decedent gave during lifetime to an heir is treated as an advancement against that heir’s share of the intestate estate only if one of the following conditions is satisfied:

(1) The decedent declares in a contemporaneous writing that the gift is an advancement against the heir’s share of the estate or that its value is to be deducted from the value of the heir’s share of the estate.
(2) The heir acknowledges in writing that the gift is to be so deducted or is an advancement or that its value is to be deducted from the value of the heir's share of the estate.

(b) Subject to subdivision (c), the property advanced is to be valued as of the time the heir came into possession or enjoyment of the property or as of the time of death of the decedent, whichever occurs first.

(c) If the value of the property advanced is expressed in the contemporaneous writing of the decedent, or in an acknowledgment of the heir made contemporaneously with the advancement, that value is conclusive in the division and distribution of the intestate estate.

(d) If the recipient of the property advanced fails to survive the decedent, the property is not taken into account in computing the intestate share to be received by the recipient's issue unless the declaration or acknowledgment provides otherwise.

SEC. 9. Section 11640 of the Probate Code is amended to read:

11640. (a) When all debts have been paid or adequately provided for, or if the estate is insolvent, and the estate is in a condition to be closed, the personal representative shall file a petition for, and the court shall make, an order for final distribution of the estate.

(b) The court shall hear and determine and resolve in the order all questions arising under Section 21135 (ademption by satisfaction) or Section 6409 (advancements).

(c) If debts remain unpaid or not adequately provided for or if, for other reasons, the estate is not in a condition to be closed, the administration may continue for a reasonable time, subject to Chapter 1 (commencing with Section 12200) of Part 11 (time for closing estate).

SEC. 10. Section 21101 of the Probate Code is amended to read:

21101. Unless the provision or context otherwise requires, this part applies to a will, trust, deed, and any other instrument.

SEC. 11. Section 21102 of the Probate Code is amended to read:

21102. (a) The intention of the transferor as expressed in the instrument controls the legal effect of the dispositions made in the instrument.

(b) The rules of construction in this part apply where the intention of the transferor is not indicated by the instrument.

(c) Nothing in this section limits the use of extrinsic evidence, to the extent otherwise authorized by law, to determine the intention of the transferor.

SEC. 12. Section 21103 of the Probate Code is amended to read:

21103. The meaning and legal effect of a disposition in an instrument is determined by the local law of a particular state selected by the transferor in the instrument unless the application of that law is contrary to the rights of the surviving spouse to community and quasi-community property, to any other public policy of this state
applicable to the disposition, or, in the case of a will, to Part 3 (commencing with Section 6500) of Division 6.

SEC. 13. Section 21104 of the Probate Code is amended to read:
21104. As used in this part, “at-death transfer” means a transfer that is revocable during the lifetime of the transferor, but does not include a joint tenancy or joint account with right of survivorship.

SEC. 14. Section 21105 of the Probate Code is amended to read:
21105. Except as otherwise provided in Sections 641 and 642, a will passes all property the testator owns at death, including property acquired after execution of the will.

SEC. 15. Section 21106 of the Probate Code is repealed.

SEC. 16. Section 21107 of the Probate Code is amended to read:
21107. If an instrument directs the conversion of real property into money at the transferor’s death, the real property and its proceeds shall be deemed personal property from the time of the transferor’s death.

SEC. 17. Section 21108 of the Probate Code is amended to read:
21108. The law of this state does not include (a) the common law rule of worthier title that a transferor cannot devise an interest to his or her own heirs or (b) a presumption or rule of interpretation that a transferor does not intend, by a transfer to his or her own heirs or next of kin, to transfer an interest to them. The meaning of a transfer of a legal or equitable interest to a transferor’s own heirs or next of kin, however designated, shall be determined by the general rules applicable to the interpretation of instruments.

SEC. 18. Section 21109 of the Probate Code is amended to read:
21109. (a) A transferee who fails to survive the transferor of an at-death transfer or until any future time required by the instrument does not take under the instrument.
(b) If it cannot be determined by clear and convincing evidence that the transferee survived until a future time required by the instrument, it is deemed that the transferee did not survive until the required future time.

SEC. 19. Section 21110 of the Probate Code is amended to read:
21110. (a) Subject to subdivision (b), if a transferee is dead when the instrument is executed, or fails or is treated as failing to survive the transferor or until a future time required by the instrument, the issue of the deceased transferee take in the transferee’s place in the manner provided in Section 240. A transferee under a class gift shall be a transferee for the purpose of this subdivision unless the transferee’s death occurred before the execution of the instrument and that fact was known to the transferor when the instrument was executed.
(b) The issue of a deceased transferee do not take in the transferee’s place if the instrument expresses a contrary intention or a substitute disposition. A requirement that the initial transferee survive the
transferor or survive for a specified period of time after the death of the transferor constitutes a contrary intention. A requirement that the initial transferee survive until a future time that is related to the probate of the transferor’s will or administration of the estate of the transferor constitutes a contrary intention.

(c) As used in this section, “transferee” means a person who is kindred of the transferor or kindred of a surviving, deceased, or former spouse of the transferor.

SEC. 20. Section 21111 of the Probate Code is amended to read:

21111. (a) Except as provided in subdivision (b) and subject to Section 21110, if a transfer fails for any reason, the property is transferred as follows:

(1) If the transferring instrument provides for an alternative disposition in the event the transfer fails, the property is transferred according to the terms of the instrument.

(2) If the transferring instrument does not provide for an alternative disposition but does provide for the transfer of a residue, the property becomes a part of the residue transferred under the instrument.

(3) If the transferring instrument does not provide for an alternative disposition and does not provide for the transfer of a residue, or if the transfer is itself a residuary gift, the property is transferred to the decedent’s estate.

(b) Subject to Section 21110, if a residuary gift or a future interest is transferred to two or more persons and the share of a transferee fails for any reason, and no alternative disposition is provided, the share passes to the other transferees in proportion to their other interest in the residuary gift or the future interest.

(c) A transfer of “all my estate” or words of similar import is a residuary gift for purposes of this section.

(d) If failure of a future interest results in an intestacy, the property passes to the heirs of the transferor determined pursuant to Section 21114.

SEC. 21. Section 21112 of the Probate Code is amended to read:

21112. A condition in a transfer of a present or future interest that refers to a person’s death “with” or “without” issue, or to a person’s “having” or “leaving” issue or no issue, or a condition based on words of similar import, is construed to refer to that person’s being dead at the time the transfer takes effect in enjoyment and to that person either having or not having, as the case may be, issue who are alive at the time of enjoyment.

SEC. 22. Section 21113 of the Probate Code is repealed.

SEC. 23. Section 21114 of the Probate Code is amended to read:

21114. (a) If a statute or an instrument provides for transfer of a present or future interest to, or creates a present or future interest in, a
designated person’s “heirs,” “heirs at law,” “next of kin,” “relatives,” or “family,” or words of similar import, the transfer is to the persons, including the state under Section 6800, and in the shares that would succeed to the designated person’s intestate estate under the intestate succession law of the transferor’s domicile, if the designated person died when the transfer is to take effect in enjoyment. If the designated person’s surviving spouse is living but is remarried at the time the transfer is to take effect in enjoyment, the surviving spouse is not an heir of the designated person for purposes of this section.

(b) As used in this section, “designated person” includes the transferor.

SEC. 24. Section 21115 of the Probate Code is amended to read:

21115. (a) Except as provided in subdivision (b), halfbloods, adopted persons, persons born out of wedlock, stepchildren, foster children, and the issue of these persons when appropriate to the class, are included in terms of class gift or relationship in accordance with the rules for determining relationship and inheritance rights for purposes of intestate succession.

(b) In construing a transfer by a transferor who is not the natural parent, a person born to the natural parent shall not be considered the child of that parent unless the person lived while a minor as a regular member of the household of the natural parent or of that parent’s parent, brother, sister, spouse, or surviving spouse. In construing a transfer by a transferor who is not the adoptive parent, a person adopted by the adoptive parent shall not be considered the child of that parent unless the person lived while a minor (either before or after the adoption) as a regular member of the household of the adopting parent or of that parent’s parent, brother, sister, or surviving spouse.

(c) Subdivisions (a) and (b) shall also apply in determining:

(1) Persons who would be kindred of the transferor or kindred of a surviving, deceased, or former spouse of the transferor under Section 21110.

(2) Persons to be included as issue of a deceased transfferee under Section 21110.

(3) Persons who would be the transferor’s or other designated person’s heirs under Section 21114.

(d) The rules for determining intestate succession under this section are those in effect at the time the transfer is to take effect in enjoyment.

SEC. 25. Section 21116 of the Probate Code is repealed.

SEC. 26. Section 21117 of the Probate Code is amended to read:

21117. At-death transfers are classified as follows:

(a) A specific gift is a transfer of specifically identifiable property.

(b) A general gift is a transfer from the general assets of the transferor that does not give specific property.
(c) A demonstrative gift is a general gift that specifies the fund or property from which the transfer is primarily to be made.

(d) A general pecuniary gift is a pecuniary gift within the meaning of Section 21118.

(e) An annuity is a general pecuniary gift that is payable periodically.

(f) A residuary gift is a transfer of property that remains after all specific and general gifts have been satisfied.

SEC. 27. Section 21118 of the Probate Code is amended to read:

21118. (a) If an instrument authorizes a fiduciary to satisfy a pecuniary gift wholly or partly by distribution of property other than money, property selected for that purpose shall be valued at its fair market value on the date of distribution, unless the instrument expressly provides otherwise. If the instrument permits the fiduciary to value the property selected for distribution as of a date other than the date of distribution, then, unless the instrument expressly provides otherwise, the property selected by the fiduciary for that purpose shall fairly reflect net appreciation and depreciation (occurring between the valuation date and the date of distribution) in all of the assets from which the distribution could have been made.

(b) As used in this section, “pecuniary gift” means a transfer of property made in an instrument that either is expressly stated as a fixed dollar amount or is a dollar amount determinable by the provisions of the instrument.

SEC. 28. Section 21120 of the Probate Code is amended to read:

21120. The words of an instrument are to receive an interpretation that will give every expression some effect, rather than one that will render any of the expressions inoperative. Preference is to be given to an interpretation of an instrument that will prevent intestacy or failure of a transfer, rather than one that will result in an intestacy or failure of a transfer.

SEC. 29. Section 21121 of the Probate Code is amended to read:

21121. All parts of an instrument are to be construed in relation to each other and so as, if possible, to form a consistent whole. If the meaning of any part of an instrument is ambiguous or doubtful, it may be explained by any reference to or recital of that part in another part of the instrument.

SEC. 30. Section 21122 of the Probate Code is amended to read:

21122. The words of an instrument are to be given their ordinary and grammatical meaning unless the intention to use them in another sense is clear and their intended meaning can be ascertained. Technical words are not necessary to give effect to a disposition in an instrument. Technical words are to be considered as having been used in their technical sense unless (a) the context clearly indicates a contrary intention or (b) it satisfactorily appears that the instrument was drawn
solely by the transferor and that the transferor was unacquainted with the technical sense.

SEC. 31. Section 21131 of the Probate Code is amended to read:

21131. A specific gift passes the property transferred subject to any mortgage, deed of trust, or other lien existing at the date of death, without right of exoneration, regardless of a general directive to pay debts contained in the instrument.

SEC. 32. Section 21132 of the Probate Code is repealed.

SEC. 33. Section 21132 is added to the Probate Code, to read:

21132. (a) If a transferor executes an instrument that makes an at-death transfer of securities and the transferor then owned securities that meet the description in the instrument, the transfer includes additional securities owned by the transferor at death to the extent the additional securities were acquired by the transferor after the instrument was executed as a result of the transferor’s ownership of the described securities and are securities of any of the following types:

(1) Securities of the same organization acquired by reason of action initiated by the organization or any successor, related, or acquiring organization, excluding any acquired by exercise of purchase options.

(2) Securities of another organization acquired as a result of a merger, consolidation, reorganization, or other distribution by the organization or any successor, related, or acquiring organization.

(3) Securities of the same organization acquired as a result of a plan of reinvestment.

(b) Distributions in cash before death with respect to a described security are not part of the transfer.

SEC. 34. Section 21133 of the Probate Code is amended to read:

21133. A recipient of an at-death transfer of a specific gift has a right to the property specifically given, to the extent the property is owned by the transferor at the time the gift takes effect in possession or enjoyment, and all of the following:

(a) Any balance of the purchase price (together with any security agreement) owing from a purchaser to the transferor at the time the gift takes effect in possession or enjoyment by reason of sale of the property.

(b) Any amount of an eminent domain award for the taking of the property unpaid at the time the gift takes effect in possession or enjoyment.

(c) Any proceeds unpaid at the time the gift takes effect in possession or enjoyment on fire or casualty insurance on or other recovery for injury to the property.

(d) Property owned by the transferor at the time the gift takes effect in possession or enjoyment and acquired as a result of foreclosure, or obtained in lieu of foreclosure, of the security interest for a specifically given obligation.
SEC. 35. Section 21134 of the Probate Code is amended to read:

21134. (a) Except as otherwise provided in this section, if after the execution of the instrument of gift specifically given property is sold or mortgaged by a conservator or by an agent acting within the authority of a durable power of attorney for an incapacitated principal, the transferee of the specific gift has the right to a general pecuniary gift equal to the net sale price of, or the amount of the unpaid loan on, the property.

(b) Except as otherwise provided in this section, if an eminent domain award for the taking of specifically given property is paid to a conservator or to an agent acting within the authority of a durable power of attorney for an incapacitated principal, or if the proceeds on fire or casualty insurance on, or recovery for injury to, specifically gifted property are paid to a conservator or to an agent acting within the authority of a durable power of attorney for an incapacitated principal, the recipient of the specific gift has the right to a general pecuniary gift equal to the eminent domain award or the insurance proceeds or recovery.

(c) For the purpose of the references in this section to a conservator, this section does not apply if, after the sale, mortgage, condemnation, fire, or casualty, or recovery, the conservatorship is terminated and the transferor survives the termination by one year.

(d) For the purpose of the references in this section to an agent acting with the authority of a durable power of attorney for an incapacitated principal, (1) "incapacitated principal" means a principal who is an incapacitated person, (2) no adjudication of incapacity before death is necessary, and (3) the acts of an agent within the authority of a durable power of attorney are presumed to be for an incapacitated principal.

(e) The right of the transferee of the specific gift under this section shall be reduced by any right the transferee has under Section 21133.

SEC. 36. Section 21135 of the Probate Code is amended to read:

21135. (a) Property given by a transferor during his or her lifetime to a person is treated as a satisfaction of an at-death transfer to that person in whole or in part only if one of the following conditions is satisfied:

(1) The instrument provides for deduction of the lifetime gift from the at-death transfer.

(2) The transferor declares in a contemporaneous writing that the gift is in satisfaction of the at-death transfer or that its value is to be deducted from the value of the at-death transfer.

(3) The transferee acknowledges in writing that the gift is in satisfaction of the at-death transfer or that its value is to be deducted from the value of the at-death transfer.

(4) The property given is the same property that is the subject of a specific gift to that person.
(b) Subject to subdivision (c), for the purpose of partial satisfaction, property given during lifetime is valued as of the time the transferee came into possession or enjoyment of the property or as of the time of death of the transferor, whichever occurs first.

(c) If the value of the gift is expressed in the contemporaneous writing of the transferor, or in an acknowledgment of the transferee made contemporaneously with the gift, that value is conclusive in the division and distribution of the estate.

(d) If the transferee fails to survive the transferor, the gift is treated as a full or partial satisfaction of the gift, as the case may be, in applying Sections 21110 and 21111 unless the transferor’s contemporaneous writing provides otherwise.

SEC. 37. Section 21136 of the Probate Code is repealed.
SEC. 38. Section 21137 of the Probate Code is repealed.
SEC. 39. Section 21138 of the Probate Code is repealed.
SEC. 40. Section 21139 of the Probate Code is amended to read:
21139. The rules stated in Sections 21133 to 21135, inclusive, are not exhaustive, and nothing in those sections is intended to increase the incidence of ademption under the law of this state.
SEC. 41. Section 21140 of the Probate Code is amended to read:
21140. This part applies to all instruments, regardless of when they were executed.

CHAPTER 139

An act to amend Section 6609.1 of the Welfare and Institutions Code, relating to sexually violent predators.

[Approved by Governor July 10, 2002. Filed with Secretary of State July 11, 2002.]

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

SECTION 1. Section 6609.1 of the Welfare and Institutions Code is amended to read:
6609.1. (a) When the State Department of Mental Health makes a recommendation to the court for community outpatient treatment for any person committed as a sexually violent predator, or when a person who is committed as a sexually violent predator pursuant to this article has petitioned a court pursuant to Section 6608 for conditional release under supervision and treatment in the community pursuant to a conditional release program, or has petitioned a court pursuant to Section 6608 for subsequent unconditional discharge, and the department is notified, or
is aware, of the filing of the petition, the department shall notify the sheriff or chief of police, or both, the district attorney, or the county’s designated counsel, that have jurisdiction over the following locations:

(1) The community in which the person may be released for community outpatient treatment.

(2) The community in which the person maintained his or her last legal residence as defined by Section 3003 of the Penal Code.

(3) The county that filed for the person’s civil commitment pursuant to this article.

The department shall also notify the Sexually Violent Predator Parole Coordinator of the Department of Corrections, if the person is otherwise subject to parole pursuant to Article 1 (commencing with Section 3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code.

The notice shall be given at least 15 days prior to the department’s submission of its recommendation to the court in those cases in which the department recommended community outpatient treatment.

(b) When the State Department of Mental Health makes a recommendation to pursue recommitment, makes a recommendation not to pursue recommitment, or seeks a judicial review of commitment status pursuant to subdivision (f) of Section 6605, of any person committed as a sexually violent predator, it shall provide written notice of that action to the sheriff or chief of police, or both, and to the district attorney, that have jurisdiction over the following locations:

(1) The community in which the person maintained his or her last legal residence as defined by Section 3003 of the Penal Code.

(2) The community in which the person will probably be released, if recommending not to pursue recommitment.

(3) The county that filed for the person’s civil commitment pursuant to this article.

The State Department of Mental Health shall also notify the Sexually Violent Predator Parole Coordinator of the Department of Corrections, if the person is otherwise subject to parole pursuant to Article 1 (commencing with Section 3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code. The notice shall be made at least 15 days prior to the department’s submission of its recommendation to the court.

Those agencies receiving the notice referred to in this subdivision shall have 15 days from receipt of the notice to provide written comment to the department regarding the impending release. Those comments shall be considered by the department, which may modify its decision regarding the community in which the person is scheduled to be released, based on those comments.

(c) If the court orders the release of a sexually violent predator, the court shall notify the Sexually Violent Predator Parole Coordinator of the Department of Corrections. The Department of Corrections shall
notify the State Department of Mental Health, the sheriff or chief of police, or both, and the district attorney, that have jurisdiction over the following locations:

(1) The community in which the person is to be released.
(2) The community in which the person maintained his or her last legal residence as defined in Section 3003 of the Penal Code.

The Department of Corrections shall make the notifications required by this subdivision regardless of whether the person released will be serving a term of parole after release by the court.

(d) If the person is otherwise subject to parole pursuant to Article 1 (commencing with Section 300) of Chapter 8 of Title 1 of Part 3 of the Penal Code, to allow adequate time for the Department of Corrections to make appropriate parole arrangements upon release of the person, the person shall remain in physical custody for a period not to exceed 72 hours or until parole arrangements are made by the Sexually Violent Predator Parole Coordinator of the Department of Corrections, whichever is sooner. To facilitate timely parole arrangements, notification to the Sexually Violent Predator Parole Coordinator of the Department of Corrections of the pending release shall be made by telephone or facsimile and, to the extent possible, notice of the possible release shall be made in advance of the proceeding or decision determining whether to release the person.

(e) The notice required by this section shall be made whether or not a request has been made pursuant to Section 6609.

(f) The time limits imposed by this section are not applicable when the release date of a sexually violent predator has been advanced by a judicial or administrative process or procedure that could not have reasonably been anticipated by the State Department of Mental Health and where, as the result of the time adjustments, there is less than 30 days remaining on the commitment before the inmate’s release, but notice shall be given as soon as practicable. In no case shall notice required by this section to the appropriate agency be later than the day of release.

(g) 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.

CHAPTER 140

An act to amend Section 1067.07 of the Insurance Code, relating to insurance.
The people of the State of California do enact as follows:

SECTION 1. Section 1067.07 of the Insurance Code is amended to read:

1067.07. (a) If a member insurer is an impaired domestic insurer, the association may, in its discretion, and subject to any conditions imposed by the association that do not impair the contractual obligations of the impaired insurer, that are approved by the commissioner, and that are, except in cases of court-ordered conservation or rehabilitation, also approved by the impaired insurer, do any of the following:

(1) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, any or all of the policies or contracts of the impaired insurer.

(2) Provide moneys, pledges, notes, guarantees, or other means proper to effectuate paragraph (1) and assure payment of the contractual obligations of the impaired insurer pending action under paragraph (1).

(3) Loan money to the impaired insurer.

(b) (1) If a member insurer is an impaired insurer, whether domestic, foreign, or alien, and the insurer is not paying claims timely, then subject to the preconditions specified in paragraph (2), the association shall, in its discretion, either:

(A) Take any of the actions specified in subdivision (a), subject to the conditions therein.

(B) Provide substitute benefits in lieu of the contractual obligations of the impaired insurer solely for health claims, periodic annuity benefit payments, death benefits, supplemental benefits, and cash withdrawals for policy or contract owners who petition therefor under claims of emergency or hardship in accordance with standards proposed by the association and approved by the commissioner.

(2) The association shall be subject to the requirements of paragraph (1) only if subparagraphs (A) and (B) apply:

(A) The laws of the state of domicile of the impaired member insurer provide that until all payments of or on account of the impaired insurer’s contractual obligations by all guarantee associations, along with all expenses thereof and interest on all of those payments and expenses, shall have been repaid to the guarantee associations or a plan of repayment by the impaired insurer shall have been approved by the guarantee associations, all of the following apply:

(i) The delinquency, rehabilitation, or conservation proceeding shall not be dismissed.
(ii) Neither the impaired insurer nor its assets shall be returned to the control of its shareholders or private management.

(iii) It shall not be permitted to solicit or accept new business or have any suspended or revoked license restored.

(B) Either clause (i) or (ii) applies:

(i) The impaired insurer is a domestic insurer, and it has been placed under an order of conservation or rehabilitation by a court of competent jurisdiction in this state.

(ii) The impaired insurer is a foreign or alien insurer, and all of the following apply:

(I) It has been prohibited from soliciting or accepting new business in this state.

(II) Its certificate of authority has been suspended or revoked in this state.

(III) A petition for conservation, rehabilitation, or liquidation has been filed in a court of competent jurisdiction in its state of domicile by the commissioner of the state.

(c) If a member insurer is an insolvent insurer, the association shall, in its discretion, either do those things described in paragraph (1) or in paragraph (2):

(1) (A) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed or reinsured, the policies or contracts of the insolvent insurer; or

(B) Assure payment of the contractual obligations of the insolvent insurer; and

(C) Provide those moneys, pledges, guarantees, or other means as are reasonably necessary to discharge the duties.

(2) With respect only to life and health insurance policies, provide benefits and coverages in accordance with subdivision (d).

(d) When proceeding under subparagraph (B) of paragraph (1) of subdivision (b), or paragraph (2) of subdivision (c), the association shall, with respect to only life and health insurance policies:

(1) Assure payment of benefits for premiums identical to the premiums and benefits, except for terms of conversion and renewability, that would have been payable under the policies of the insolvent insurer, for claims incurred:

(A) With respect to group life insurance policies, not later than the earlier of the next renewal date under the policies or contracts or 45 days, but in no event less than 30 days, after the date on which the association becomes obligated with respect to the policies.

(B) With respect to group health insurance policies, individual health insurance policies and individual life insurance policies, not later than the earlier of the next renewal date, if any, under the policies or contracts
or one year, but in no event less than 30 days, from the date on which the association becomes obligated with respect to the policies.

(2) Make diligent efforts to provide all known insureds or group policyholders, with respect to group policies, 30 days notice of the termination of the benefits provided.

(3) With respect to individual policies, make available to each known insured, or owner if other than the insured, and with respect to an individual formerly insured under a group policy who is not eligible for replacement group coverage, make available substitute coverage on an individual basis in accordance with the provisions of paragraph (4), if the insureds had a right under law or the terminated policy to convert coverage to individual coverage or to continue an individual policy in force until a specified age or for a specified time, during which the insurer had no right unilaterally to make changes in any provision of the policy or had a right only to make changes in premium by class.

(4) (A) In providing the substitute coverage required under paragraph (3), the association may offer either to reissue the terminated coverage or to issue an alternative policy and shall consider obtaining coverage for a medically uninsurable person from the program established under Part 6.5 (commencing with Section 12700) of Division 2.

(B) Alternative or reissued policies shall be offered without requiring evidence of insurability, and shall not provide for any waiting period or exclusion that would not have applied under the terminated policy.

(C) The association may reinsure any alternative or reissued policy.

(5) (A) Alternative policies adopted by the association shall be subject to the approval of the commissioner. The association may adopt alternative policies of various types for future issuance without regard to any particular impairment or insolvency.

(B) Alternative policies shall contain at least the minimum statutory provisions required in this state and provide benefits that shall not be unreasonable in relation to the premium charged. The association shall set the premium in accordance with a table of rates which it shall adopt. The premium shall reflect the amount of insurance to be provided and the age and class of risk of each insured, but shall not reflect any changes in the health of the insured after the original policy was last underwritten.

(C) Any alternative policy issued by the association shall provide coverage of a type similar to that of the policy issued by the impaired or insolvent insurer, as determined by the association.

(6) If the association elects to reissue terminated coverage at a premium rate different from that charged under the terminated policy, the premium shall be set by the association in accordance with the amount of insurance provided and the age and class of risk, subject to approval of the commissioner or by a court of competent jurisdiction.
(7) The association’s obligations with respect to coverage under any policy of the impaired or insolvent insurer or under any reissued or alternative policy shall cease on the date that coverage or policy is replaced by another similar policy by the policyholder, the insured, or the association.

(e) When proceeding under subparagraph (B) of paragraph (1) of subdivision (b) or under subdivision (c) with respect to any policy or contract carrying guaranteed minimum interest rates, the association shall assure the payment or crediting of a rate of interest consistent with subparagraph (C) of paragraph (2) of subdivision (b) of Section 1067.02.

(f) Nonpayment of premiums within 31 days after the date required under the terms of any guaranteed, assumed, alternative, or reissued policy or contract or substitute coverage shall terminate the association’s obligations under the policy or coverage under this article with respect to that policy or coverage, except with respect to any claims incurred or any net cash surrender value which may be due in accordance with the provisions of this article.

(g) Premiums due for coverage after entry of an order of liquidation of an insolvent insurer shall belong to and be payable at the direction of the association, and the association shall be liable for unearned premiums due to policy or contract owners arising after the entry of that order.

(h) The protection provided by this article shall not apply where any guarantee protection is provided to residents of this state by the laws of the domiciliary state or jurisdiction of the impaired or insolvent insurer other than this state.

(i) In carrying out its duties under subdivisions (b) and (c), the association may, subject to approval by the court, do either of the following:

(1) Impose permanent policy or contract liens in connection with any guarantee, assumption, or reinsurance agreement, if the association finds that the amounts which can be assessed under this article are less than the amounts needed to assure full and prompt performance of the association’s duties under this article, or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of the permanent policy or contract liens, to be in the public interest.

(2) Impose temporary moratoriums or liens on payments of cash values and policy loans, or any other right to withdraw funds held in conjunction with policies or contracts, in addition to any contractual provisions for deferral of cash or policy loan value.

(j) If the association fails to act within a reasonable period of time as provided in subparagraph (B) of paragraph (1) of subdivision (b), and subdivisions (c) and (d), with respect to an impaired or insolvent insurer,
the commissioner shall have the powers and duties of the association under this article with respect to the impaired or insolvent insurer.

(k) The association may render assistance and advice to the commissioner, upon his or her request, concerning rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of any impaired or insolvent insurer.

(l) The association shall have standing to appear before any court in this state with jurisdiction over an impaired or insolvent insurer concerning which the association is or may become obligated under this article. That standing shall extend to all matters germane to the powers and duties of the association, including, but not limited to, proposals for reinsuring, modifying, or guaranteeing the policies or contracts of the impaired or insolvent insurer and the determination of the policies or contracts and contractual obligations. The association shall also have the right to appear or intervene before a court in another state with jurisdiction over an impaired or insolvent insurer for which the association is or may become obligated or with jurisdiction over a third party against whom the association may have rights through subrogation of the insurer’s policyholders.

(m) (1) Any person receiving benefits under this article shall be deemed to have assigned the rights under, and any causes of action relating to, the covered policy or contract to the association to the extent of the benefits received because of this article, whether the benefits are payments of or on account of contractual obligations, continuation of coverage or provision of substitute or alternative coverages. The association may require an assignment to it of those rights and cause of action by any payee, policy or contract owner, beneficiary, insured, or annuitant as a condition precedent to the receipt of any right or benefits conferred by this article upon that person.

(2) The subrogation rights of the association under this subdivision shall have the same priority against the assets of the impaired or insolvent insurer as that possessed by the person entitled to receive benefits under this article.

(3) In addition to paragraphs (1) and (2), the association shall have all common law rights of subrogation and any other equitable or legal remedy that would have been available to the impaired or insolvent insurer or holder of a policy or contract with respect to the policy or contracts.

(n) The association may do any of the following:

(1) Enter into contracts necessary or proper to carry out the provisions and purposes of this article.

(2) Sue or be sued, including taking any legal actions necessary or proper to recover any unpaid assessments under Section 1067.08 and to settle claims or potential claims against it.
(3) Borrow money to effect the purposes of this article. Any notes or other evidence of indebtedness of the association not in default shall be legal investments for domestic insurers and may be carried as admitted assets.

(4) Employ or retain an executive director and other persons necessary to handle the financial transactions of the association, and to perform other functions necessary or proper under this article provided that the executive director shall be subject to the approval of the commissioner.

(5) Take legal action necessary to avoid payment of improper claims.

(6) Exercise, for the purposes of this article and to the extent approved by the commissioner, the powers of a domestic life or health insurer, but in no case may the association issue insurance policies or annuity contracts other than those issued to perform its obligations under this article.

(o) The association may join an organization of one or more other state associations of similar purposes, to further the purposes and administer the powers and duties of the association.

(p) There shall be no liability on the part of and no cause of action shall arise against the association or against any transferee from the association in connection with the transfer by reinsurance or otherwise of all or any part of an impaired or insolvent insurer’s business by reason of any action taken or any failure to take any action by the impaired or insolvent insurer at any time.

(q) With respect to covered policies for which the association becomes obligated after an entry of an order or liquidation or rehabilitation, the association may elect to succeed to the rights of the insolvent insurer arising after the date of the order of liquidation or rehabilitation under any contract of reinsurance to which the insolvent insurer was a party, to the extent that the contract provides coverage for losses occurring after the date of the order of liquidation or rehabilitation. As a condition to making this election, the association must pay all unpaid premiums due under the contract for coverage relating to periods before and after the date of the order of liquidation or rehabilitation.

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CHAPTER  141

An act to amend Section 798.87 of the Civil Code, and to amend Section 18402 of the Health and Safety Code, relating to mobilehome parks.
The people of the State of California do enact as follows:

SECTION 1. Section 798.87 of the Civil Code is amended to read:

798.87. (a) The substantial failure of the management to provide and maintain physical improvements in the common facilities in good working order and condition shall be deemed a public nuisance. Notwithstanding Section 3491, this nuisance may only be remedied by a civil action or abatement.

(b) The substantial violation of a mobilehome park rule shall be deemed a public nuisance. Notwithstanding Section 3491, this nuisance may only be remedied by a civil action or abatement.

(c) A civil action pursuant to this section may be brought by a park resident, the park management, or in the name of the people of the State of California, by any of the following:

(1) The district attorney or the county counsel of the jurisdiction in which the park, or the greater portion of the park, is located.

(2) The city attorney or city prosecutor if the park is located within the jurisdiction of the city.

(3) The Attorney General.

SEC. 2. Section 18402 of the Health and Safety Code is amended to read:

18402. The owner or operator of a park shall abate any nuisance in the park within five days, or within a longer period of time as may be allowed by the enforcement agency, after the owner or operator of a park has been given written notice to remove the nuisance. If the owner or operator of a park fails to do so within that time, the district attorney of the county in which the park, or the greater portion of the park, is situated shall bring a civil action to abate the nuisance in the superior court of the county in the name of the people of the State of California. In addition to the district attorney, the Attorney General, a county counsel of the county in which the park, or the greater portion of the park, is situated, or a city attorney or city prosecutor if the park is located within the jurisdiction of a city, may bring a civil action to abate the nuisance in the superior court of the county in the name of the people of the State of California.

CHAPTER 142

An act to add Section 8406.9 to the Education Code, relating to child care and development services.
The people of the State of California do enact as follows:

SECTION 1. Section 8406.9 is added to the Education Code, to read:

8406.9. (a) An agency that places a person in a position of fiscal responsibility or control who has been convicted of any crime specified in Chapter 2 (commencing with Section 458) of, Chapter 4 (commencing with Section 470) of, Chapter 5 (commencing with Section 484) of, Chapter 6 (commencing with Section 503) of, or Chapter 7 (commencing with Section 518) of, Title 13 of Part 1 of the Penal Code may have its contract suspended or terminated immediately if there is documented evidence of the conviction, and upon review and recommendation of the general counsel of the State Department of Education.

(b) For purposes of this section, “position of fiscal responsibility or control” includes any authority to direct or control expenditure of, or any access to, state or federal child care and development funds received pursuant to this chapter whether that authority or access is conferred based on the person’s status as an employee, director, manager, board member, or volunteer, or based on any other status.

(c) An agency whose contract is terminated pursuant to this section may appeal that action in accordance with Section 8402.

(d) Termination pursuant to this section shall not occur without notice as described in Section 8406 at least 90 days prior to termination.

(e) If the agency provides evidence to the State Department of Education that the convicted person has been removed from the position of fiscal responsibility or control and provides assurance that the person will not be returned to a position of fiscal responsibility or control, the State Department of Education shall withdraw the termination action.

CHAPTER  143

An act to amend Section 2881 of the Public Utilities Code, relating to telephone corporations.

[Approved by Governor July 10, 2002. Filed with Secretary of State July 11, 2002.]
The people of the State of California do enact as follows:

SECTION 1. Section 2881 of the Public Utilities Code is amended to read:

2881. (a) The commission shall design and implement a program to provide a telecommunications device capable of serving the needs of individuals who are deaf or hearing impaired, together with a single party line, at no charge additional to the basic exchange rate, to any subscriber who is certified as an individual who is deaf or hearing impaired by a licensed physician and surgeon, audiologist, or a qualified state or federal agency, as determined by the commission, and to any subscriber that is an organization representing individuals who are deaf or hearing impaired, as determined and specified by the commission pursuant to subdivision (e). A licensed hearing aid dispenser may certify the need of an individual to participate in the program if that individual has been previously fitted with an amplified device by the dispenser and the dispenser has the individual’s hearing records on file prior to certification.

(b) The commission shall also design and implement a program to provide a dual-party relay system, using third-party intervention to connect individuals who are deaf or hearing impaired and offices of organizations representing individuals who are deaf or hearing impaired, as determined and specified by the commission pursuant to subdivision (e), with persons of normal hearing by way of intercommunications devices for individuals who are deaf or hearing impaired and the telephone system, making available reasonable access of all phases of public telephone service to telephone subscribers who are deaf or hearing impaired. In order to make a dual-party relay system that will meet the requirements of individuals who are deaf or hearing impaired available at a reasonable cost, the commission shall initiate an investigation, conduct public hearings to determine the most cost-effective method of providing dual-party relay service to the deaf or hearing impaired when using a telecommunications device, and solicit the advice, counsel, and physical assistance of statewide nonprofit consumer organizations of the deaf, during the development and implementation of the system. The commission shall phase in this program, on a geographical basis, over a three-year period ending on January 1, 1987. The commission shall apply for certification of this program under rules adopted by the Federal Communications Commission pursuant to Section 401 of the federal Americans with Disabilities Act of 1990 (Public Law 101-336).

(c) The commission shall also design and implement a program whereby specialized or supplemental telephone communications equipment may be provided to subscribers who are certified to be
disabled at no charge additional to the basic exchange rate. The certification, including a statement of visual or medical need for specialized telecommunications equipment, shall be provided by a licensed optometrist or physician and surgeon, acting within the scope of practice of his or her license, or by a qualified state or federal agency as determined by the commission. The commission shall, in this connection, study the feasibility of, and implement, if determined to be feasible, personal income criteria, in addition to the certification of disability, for determining a subscriber’s eligibility under this subdivision.

(d) The commission shall establish a rate recovery mechanism through a surcharge not to exceed one-half of 1 percent uniformly applied to a subscriber’s intrastate telephone service, other than one-way radio paging service and universal telephone service, both within a service area and between service areas, to allow providers of the equipment and service specified in subdivisions (a), (b), and (c), to recover costs as they are incurred under this section. The surcharge shall be in effect until January 1, 2006. The commission shall require that the programs implemented under this section be identified on subscribers’ bills, and shall establish a fund and require separate accounting for each of the programs implemented under this section.

(e) The commission shall determine and specify those statewide organizations representing the deaf or hearing impaired that shall receive a telecommunications device pursuant to subdivision (a) or a dual-party relay system pursuant to subdivision (b), or both, and in which offices the equipment shall be installed in the case of an organization having more than one office.

(f) The commission may direct any telephone corporation subject to its jurisdiction to comply with its determinations and specifications pursuant to this section.

(g) The commission shall annually review the surcharge level and the balances in the funds established pursuant to subdivision (d). Until January 1, 2006, the commission shall be authorized to make, within the limits set by subdivision (d), any necessary adjustments to the surcharge to ensure that the programs supported thereby are adequately funded and that the fund balances are not excessive. A fund balance which is projected to exceed six months’ worth of projected expenses at the end of the fiscal year is excessive.

(h) The commission shall prepare and submit to the Legislature, on or before December 31, 1988, and annually thereafter, a report on the fiscal status of the programs established and funded pursuant to this section and Sections 2881.1 and 2881.2. The report shall include a statement of the surcharge level established pursuant to subdivision (d) and revenues produced by the surcharge, an accounting of program
expenses, and an evaluation of options for controlling those expenses and increasing program efficiency, including, but not limited to, all of the following proposals:

(1) The establishment of a means test for persons to qualify for program equipment or free or reduced charges for the use of telecommunication services.

(2) If and to the extent not prohibited under Section 401 of the federal Americans with Disabilities Act of 1990 (Public Law 101-336), the imposition of limits or other restrictions on maximum usage levels for the relay service, which shall include the development of a program to provide basic communications requirements to all relay users at discounted rates, including discounted toll-call rates, and, for usage in excess of those basic requirements, at rates which recover the full costs of service.

(3) More efficient means for obtaining and distributing equipment to qualified subscribers.

(4) The establishment of quality standards for increasing the efficiency of the relay system.

(i) In order to continue to meet the access needs of individuals with functional limitations of hearing, vision, movement, manipulation, speech and interpretation of information, the commission shall perform ongoing assessment of, and if appropriate, expand the scope of the program to allow for additional access capability consistent with evolving telecommunications technology.

CHAPTER 144

An act to amend Section 215 of the Code of Civil Procedure, relating to jury duty.

[Approved by Governor July 10, 2002. Filed with Secretary of State July 11, 2002.]

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

SECTION 1. Section 215 of the Code of Civil Procedure is amended to read:

215. (a) Beginning July 1, 2000, the fee for jurors in the superior court, in civil and criminal cases, is fifteen dollars ($15) a day for each day’s attendance as a juror after the first day.

(b) Jurors in the superior court, in civil and criminal cases, shall be reimbursed for mileage at the rate of thirty-four cents ($0.34) per mile
for each mile actually traveled in attending court as a juror after the first day, in going only.

CHAPTER 145

An act to amend Sections 19568 and 19617.2 of the Business and Professions Code, relating to horse racing.

[Approved by Governor July 10, 2002. Filed with Secretary of State July 11, 2002.]

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

SECTION 1. Section 19568 of the Business and Professions Code is amended to read:

19568. (a) Every licensee conducting a horse racing meeting shall, each racing day, provide for the running of at least one race limited to California-bred horses, to be known as the "California-bred race." If, however, sufficient competition cannot be had among horses of that class on any day, the race, with the consent of the board, may be eliminated for that day and a substitute race provided.

(b) For thoroughbred and quarter horse racing only, the total amount distributed to horsemen and horsewomen for California-bred stakes races, and for races featuring California-breds upon the approval of the official registering agency, from the purse account, including overnight stakes, shall be not less than 10 percent of the total amount distributed for all stakes races from the purse account, including overnight stakes races, at that meeting of the racing association licensed to conduct live racing.

(c) It is the intent of the Legislature that the thoroughbred racing associations in this state, in conjunction with the official registering agency, and owners and trainers organizations meet and report to the board on the establishment of a coordinated California-bred restricted schedule of stakes races designed to showcase California-bred restricted stakes races and qualify registered California-bred horses for the California Cup and the California Cup Day races. It is also the intent of the Legislature that the report be submitted to the board annually at least 60 days prior to the start of the racing year.

SEC. 2. Section 19617.2 of the Business and Professions Code is amended to read:

19617.2. (a) Except as otherwise provided in this chapter, any association conducting a race meeting that includes thoroughbred racing shall deposit with the official registering agency 0.54 percent of the total
amount handled ontrack in daily conventional and exotic parimutuel pools resulting from thoroughbred wagers made in this state. These deposits shall be made at the following intervals:

(1) For any meeting of 20 racing days or less, the requisite deposit shall be made not later than seven days immediately following the last day of that meeting.

(2) For any meeting of more than 20 racing days, the initial deposit shall be made not later than 27 racing days after the commencement of that meeting and every 20 racing days thereafter, with a final deposit made not later than seven days following the last day of that meeting. The initial deposit for that meeting shall be based upon the applicable amount handled during the first 20 racing days of the meeting, and deposits thereafter shall be based upon the applicable amount handled during the ensuing periods of 20 racing days with the last deposit being based upon the applicable amount handled from the end of the last 20-racing-day period for which a deposit has been made to the end of the meeting.

(b) After deducting a sum equal to 5 percent of the total deposits made pursuant to subdivision (a) and the total deposits made pursuant to Section 19602, the amount to compensate the official registering agency for its administrative cost and for expenses it incurs for educational, promotional, and research programs, the official registering agency shall for computational purposes distribute annually the balance of the deposits in the following manner:

(1) To the California-bred race fund, 10 percent to be used for the promotion of California-bred races and from which purses are to be provided or supplemented for California Cup Day, other California-bred races, and, upon the approval of the official registering agency, races featuring California-breds. This fund shall be administered by the official registering agency. Any funds not used for those purposes during any year, up to 1 percent of the total breeder, stallion, and owner award receipts, shall remain in the California-bred race fund to be distributed for the purposes of this paragraph the following year. Any funds remaining thereafter shall be redistributed to augment the funds referred to in subdivision (c), and shall be allocated to the breeder fund and to the stallion fund as provided in that subdivision. It is the intent of the Legislature that all funds used for purses shall supplement and not supplant existing purses for California-breds.

(2) To the owner fund for the purpose of owner premiums pursuant to Section 19614.4.

(c) The funds remaining after the distributions made pursuant to subdivision (b) shall be distributed as follows:

(1) To the breeder fund 75 percent, from which breeder awards are to be paid.
(2) To the stallion fund 25 percent, from which stallion awards are to be paid.

(d) The official registering agency shall make the following payments to the owner, breeder, and stallion owner so as to encourage agriculture and the breeding of higher quality horses in this state:

1. The owner shall be paid an owner premium pursuant to Section 19614.4.

2. The breeder shall be paid a breeder award equal to the quotient for the breeder fund multiplied by the eligible earnings of the horse bred by the breeder.

3. The stallion owner shall be paid a stallion award equal to the quotient for the stallion fund multiplied by the eligible earnings of the stallion owner’s eligible thoroughbred sire.

4. Owner premiums for California-bred horses shall be listed in the racing program alongside the advertised purse, and shall be distributed to the owner pursuant to Section 19614.4 at the same time as the purse.

5. The breeder and stallion awards shall be paid not later than March 31 of the calendar year immediately following the calendar year for which the awards or premiums were earned.

CHAPTER  146

An act to amend Section 4025 of the Penal Code, relating to inmates.

[Approved by Governor July 10, 2002. Filed with Secretary of State July 11, 2002.]

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

SECTION 1. Section 4025 of the Penal Code is amended to read:

4025. (a) The sheriff of each county may establish, maintain and operate a store in connection with the county jail and for this purpose may purchase confectionery, tobacco and tobacco users’ supplies, postage and writing materials, and toilet articles and supplies and sell these goods, articles, and supplies for cash to inmates in the jail.

(b) The sale prices of the articles offered for sale at the store shall be fixed by the sheriff. Any profit shall be deposited in an inmate welfare fund to be kept in the treasury of the county.

(c) There shall also be deposited in the inmate welfare fund 10 percent of all gross sales of inmate hobbycraft.

(d) There shall be deposited in the inmate welfare fund any money, refund, rebate, or commission received from a telephone company or pay telephone provider when the money, refund, rebate, or commission
is attributable to the use of pay telephones which are primarily used by inmates while incarcerated.

(e) The money and property deposited in the inmate welfare fund shall be expended by the sheriff primarily for the benefit, education, and welfare of the inmates confined within the jail. Any funds that are not needed for the welfare of the inmates may be expended for the maintenance of county jail facilities. Maintenance of county jail facilities may include, but is not limited to, the salary and benefits of personnel used in the programs to benefit the inmates, including, but not limited to, education, drug and alcohol treatment, welfare, library, accounting, and other programs deemed appropriate by the sheriff. Inmate welfare funds shall not be used to pay required county expenses of confining inmates in a local detention system, such as meals, clothing, housing, or medical services or expenses, except that inmate welfare funds may be used to augment those required county expenses as determined by the sheriff to be in the best interests of inmates. An itemized report of these expenditures shall be submitted annually to the board of supervisors.

(f) The operation of a store within any other county adult detention facility which is not under the jurisdiction of the sheriff shall be governed by the provisions of this section, except that the board of supervisors shall designate the proper county official to exercise the duties otherwise allocated in this section to the sheriff.

(g) The operation of a store within any city adult detention facility shall be governed by the provisions of this section, except that city officials shall assume the respective duties otherwise outlined in this section for county officials.

(h) The treasurer may, pursuant to Article 1 (commencing with Section 53600), or Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, deposit, invest, or reinvest any part of the inmate welfare fund, in excess of that which the treasurer deems necessary for immediate use. The interest or increment accruing on these funds shall be deposited in the inmate welfare fund.

(i) The sheriff may expend money from the inmate welfare fund to provide indigent inmates, prior to release from the county jail or any other adult detention facility under the jurisdiction of the sheriff, with essential clothing and transportation expenses within the county or, at the discretion of the sheriff, transportation to the inmate’s county of residence, if the county is within the state or within 500 miles from the county of incarceration. This subdivision does not authorize expenditure of money from the inmate welfare fund for the transfer of any inmate to
the custody of any other law enforcement official or jurisdiction.

CHAPTER 147

An act to amend Section 65589.5 of the Government Code, relating to land use.

[Approved by Governor July 10, 2002. Filed with Secretary of State July 11, 2002.]

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

SECTION 1. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state’s housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible housing developments that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local
jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low- or moderate-income households or condition approval, including through the use of design review standards, in a manner that renders the project infeasible for development for the use of very low, low- or moderate-income households unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588 and that is in substantial compliance with this article, and the development project is not needed for the jurisdiction to meet its share of the regional housing need for very low, low-, or moderate-income housing.

(2) The development project as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households. 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 the application was deemed complete.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households.

(4) Approval of the development project would increase the concentration of lower income households in a neighborhood that already has a disproportionately high number of lower income households and there is no feasible method of approving the development at a different site, including those sites identified pursuant to paragraph (1) of subdivision (c) of Section 65583, without rendering the development unaffordable to low- and moderate-income households.

(5) The development project is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(6) The development project is inconsistent with both the jurisdiction’s zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the
application was deemed complete, and the jurisdiction has adopted a housing element pursuant to this article.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) Nothing in this section shall be construed to prohibit a local agency from requiring the development project to comply with written development standards, conditions, and policies appropriate to, and consistent with, meeting the quantified objectives relative to the development of housing, as required in the housing element pursuant to subdivision (b) of Section 65583. Nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law which are essential to provide necessary public services and facilities to the development project.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) “Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) “Housing for very low, low-, or moderate-income households” means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.
(3) “Area median income” means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(4) “Neighborhood” means a planning area commonly identified as such in a community’s planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.

(5) “Disapprove the development project” includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project’s application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved
or approved upon the condition that the project be developed at a lower density. 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 the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney fees and costs of suit to the plaintiff or petitioner who proposed the housing development, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled.

(l) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure, all or part of the record may be filed (1) by the petitioner with the petition or petitioner’s points and authorities, (2) by the respondent with respondent’s points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

CHAPTER 148

An act to amend Section 853.7a of the Penal Code, and to amend Section 40508.5 of the Vehicle Code, relating to bench warrants.
The people of the State of California do enact as follows:

SECTION 1. Section 853.7a of the Penal Code is amended to read:

853.7a. (a) In addition to the fees authorized or required by any other provision of law, a county may, by resolution of the board of supervisors, require the courts of that county to impose an assessment of fifteen dollars ($15) upon every person who violates his or her written promise to appear or a lawfully granted continuance of his or her promise to appear in court or before a person authorized to receive a deposit of bail, or who otherwise fails to comply with any valid court order for a violation of any provision of this code or local ordinance adopted pursuant to this code. This assessment shall apply whether or not a violation of Section 853.7 is concurrently charged or a warrant of arrest is issued pursuant to Section 853.8.

(b) The clerk of the court shall deposit the amounts collected under this section in the county treasury. All money so deposited shall be used first for the development and operation of an automated county warrant system. If sufficient funds are available after appropriate expenditures to develop, modernize, and maintain the automated warrant system, a county may use the balance to fund a warrant service task force for the purpose of serving all bench warrants within the county.

SEC. 2. Section 40508.5 of the Vehicle Code is amended to read:

40508.5. (a) In addition to the fees authorized or required by any other provision of law, a county may, by resolution of the board of supervisors, require the courts of that county to impose an assessment of fifteen dollars ($15) upon every person who violates his or her written promise to appear or a lawfully granted continuance of his or her promise to appear in court or before a person authorized to receive a deposit of bail, or who otherwise fails to comply with any valid court order for a violation of any provision of this code or local ordinance adopted pursuant to this code. This assessment shall apply whether or not a violation of Section 40508 is concurrently charged or a warrant of arrest is issued pursuant to Section 40515.

(b) The courts subject to subdivision (a) shall increase the bail schedule amounts to reflect the amount of the assessment imposed by this section.

(c) If bail is returned, the amount of the assessment shall also be returned, but only if the person did not violate his or her promise to appear or citation following a lawfully granted continuance.

(d) The clerk of the court shall deposit the amounts collected under this section in the county treasury. All money so deposited shall be used
first for the development and operation of an automated county warrant system. If sufficient funds are available after appropriate expenditures to develop, modernize, and maintain the automated warrant system, a county may use the balance to fund a warrant service task force for the purpose of serving all bench warrants within the county.

CHAPTER 149

An act to amend Section 340.1 of the Code of Civil Procedure, relating to damages.

[Approved by Governor July 10, 2002. Filed with Secretary of State July 11, 2002.]

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

SECTION 1. Section 340.1 of the Code of Civil Procedure is amended to read:

340.1. (a) In an action for recovery of damages suffered as a result of childhood sexual abuse, the time for commencement of the action shall be within eight years of the date the plaintiff attains the age of majority or within three years of the date the plaintiff discovers or reasonably should have discovered that psychological injury or illness occurring after the age of majority was caused by the sexual abuse, whichever period expires later, for any of the following actions:

(1) An action against any person for committing an act of childhood sexual abuse.

(2) An action for liability against any person or entity who owed a duty of care to the plaintiff, where a wrongful or negligent act by that person or entity was a legal cause of the childhood sexual abuse which resulted in the injury to the plaintiff.

(3) An action for liability against any person or entity where an intentional act by that person or entity was a legal cause of the childhood sexual abuse which resulted in the injury to the plaintiff.

(b) (1) No action described in paragraph (2) or (3) of subdivision (a) may be commenced on or after the plaintiff’s 26th birthday.

(2) This subdivision does not apply if the person or entity knew or had reason to know, or was otherwise on notice, of any unlawful sexual conduct by an employee, volunteer, representative, or agent, and failed to take reasonable steps, and to implement reasonable safeguards, to avoid acts of unlawful sexual conduct in the future by that person, including, but not limited to, preventing or avoiding placement of that person in a function or environment in which contact with children is an

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inherent part of that function or environment. For purposes of this subdivision, providing or requiring counseling is not sufficient, in and of itself, to constitute a reasonable step or reasonable safeguard.

(c) Notwithstanding any other provision of law, any claim for damages described in paragraph (2) or (3) of subdivision (a) that is permitted to be filed pursuant to paragraph (2) of subdivision (b) that would otherwise be barred as of January 1, 2003, solely because the applicable statute of limitations has or had expired, is revived, and, in that case, a cause of action may be commenced within one year of January 1, 2003. Nothing in this subdivision shall be construed to alter the applicable statute of limitations period of an action that is not time barred as of January 1, 2003.

(d) Subdivision (c) does not apply to either of the following:

(1) Any claim that has been litigated to finality on the merits in any court of competent jurisdiction prior to January 1, 2003. Termination of a prior action on the basis of the statute of limitations does not constitute a claim that has been litigated to finality on the merits.

(2) Any written, compromised settlement agreement which has been entered into between a plaintiff and a defendant where the plaintiff was represented by an attorney who was admitted to practice law in this state at the time of the settlement, and the plaintiff signed the agreement.

(e) “Childhood sexual abuse” as used in this section includes any act committed against the plaintiff that occurred when the plaintiff was under the age of 18 years and that would have been proscribed by Section 266j of the Penal Code; Section 285 of the Penal Code; paragraph (1) or (2) of subdivision (b), or of subdivision (c), of Section 286 of the Penal Code; subdivision (a) or (b) of Section 288 of the Penal Code; paragraph (1) or (2) of subdivision (b), or of subdivision (c), of Section 288a of the Penal Code; subdivision (h), (i), or (j) of Section 289 of the Penal Code; Section 647.6 of the Penal Code; or any prior laws of this state of similar effect at the time the act was committed. Nothing in this subdivision limits the availability of causes of action permitted under subdivision (a), including causes of action against persons or entities other than the alleged perpetrator of the abuse.

(f) Nothing in this section shall be construed to alter the otherwise applicable burden of proof, as defined in Section 115 of the Evidence Code, that a plaintiff has in a civil action subject to this section.

(g) Every plaintiff 26 years of age or older at the time the action is filed shall file certificates of merit as specified in subdivision (h).

(h) Certificates of merit shall be executed by the attorney for the plaintiff and by a licensed mental health practitioner selected by the plaintiff declaring, respectively, as follows, setting forth the facts which support the declaration:
(1) That the attorney has reviewed the facts of the case, that the attorney has consulted with at least one mental health practitioner who is licensed to practice and practices in this state and who the attorney reasonably believes is knowledgeable of the relevant facts and issues involved in the particular action, and that the attorney has concluded on the basis of that review and consultation that there is reasonable and meritorious cause for the filing of the action. The person consulted may not be a party to the litigation.

(2) That the mental health practitioner consulted is licensed to practice and practices in this state and is not a party to the action, that the practitioner is not treating and has not treated the plaintiff, and that the practitioner has interviewed the plaintiff and is knowledgeable of the relevant facts and issues involved in the particular action, and has concluded, on the basis of his or her knowledge of the facts and issues, that in his or her professional opinion there is a reasonable basis to believe that the plaintiff had been subject to childhood sexual abuse.

(3) That the attorney was unable to obtain the consultation required by paragraph (1) because a statute of limitations would impair the action and that the certificates required by paragraphs (1) and (2) could not be obtained before the impairment of the action. If a certificate is executed pursuant to this paragraph, the certificates required by paragraphs (1) and (2) shall be filed within 60 days after filing the complaint.

(i) Where certificates are required pursuant to subdivision (g), the attorney for the plaintiff shall execute a separate certificate of merit for each defendant named in the complaint.

(j) In any action subject to subdivision (g), no defendant may be served, and the duty to serve a defendant with process does not attach, until the court has reviewed the certificates of merit filed pursuant to subdivision (h) with respect to that defendant, and has found, in camera, based solely on those certificates of merit, that there is reasonable and meritorious cause for the filing of the action against that defendant. At that time, the duty to serve that defendant with process shall attach.

(k) A violation of this section may constitute unprofessional conduct and may be the grounds for discipline against the attorney.

(l) The failure to file certificates in accordance with this section shall be grounds for a demurrer pursuant to Section 430.10 or a motion to strike pursuant to Section 435.

(m) In any action subject to subdivision (g), no defendant may be named except by “Doe” designation in any pleadings or papers filed in the action until there has been a showing of corroborative fact as to the charging allegations against that defendant.

(n) At any time after the action is filed, the plaintiff may apply to the court for permission to amend the complaint to substitute the name of the defendant or defendants for the fictitious designation, as follows:
(1) The application shall be accompanied by a certificate of corroborative fact executed by the attorney for the plaintiff. The certificate shall declare that the attorney has discovered one or more facts corroborative of one or more of the charging allegations against a defendant or defendants, and shall set forth in clear and concise terms the nature and substance of the corroborative fact. If the corroborative fact is evidenced by the statement of a witness or the contents of a document, the certificate shall declare that the attorney has personal knowledge of the statement of the witness or of the contents of the document, and the identity and location of the witness or document shall be included in the certificate. For purposes of this section, a fact is corroborative of an allegation if it confirms or supports the allegation. The opinion of any mental health practitioner concerning the plaintiff shall not constitute a corroborative fact for purposes of this section.

(2) Where the application to name a defendant is made prior to that defendant’s appearance in the action, neither the application nor the certificate of corroborative fact by the attorney shall be served on the defendant or defendants, nor on any other party or their counsel of record.

(3) Where the application to name a defendant is made after that defendant’s appearance in the action, the application shall be served on all parties and proof of service provided to the court, but the certificate of corroborative fact by the attorney shall not be served on any party or their counsel of record.

(o) The court shall review the application and the certificate of corroborative fact in camera and, based solely on the certificate and any reasonable inferences to be drawn from the certificate, shall, if one or more facts corroborative of one or more of the charging allegations against a defendant has been shown, order that the complaint may be amended to substitute the name of the defendant or defendants.

(p) The court shall keep under seal and confidential from the public and all parties to the litigation, other than the plaintiff, any and all certificates of corroborative fact filed pursuant to subdivision (n).

(q) Upon the favorable conclusion of the litigation with respect to any defendant for whom a certificate of merit was filed or for whom a certificate of merit should have been filed pursuant to this section, the court may, upon the motion of a party or upon the court’s own motion, verify compliance with this section by requiring the attorney for the plaintiff who was required by subdivision (h) to execute the certificate to reveal the name, address, and telephone number of the person or persons consulted with pursuant to subdivision (h) that were relied upon by the attorney in preparation of the certificate of merit. The name, address, and telephone number shall be disclosed to the trial judge in camera and in the absence of the moving party. If the court finds there
has been a failure to comply with this section, the court may order a party, a party’s attorney, or both, to pay any reasonable expenses, including attorney’s fees, incurred by the defendant for whom a certificate of merit should have been filed.

(r) The amendments to this section enacted at the 1990 portion of the 1989–90 Regular Session shall apply to any action commenced on or after January 1, 1991, including any action otherwise barred by the period of limitations in effect prior to January 1, 1991, thereby reviving those causes of action which had lapsed or technically expired under the law existing prior to January 1, 1991.

(s) The Legislature declares that it is the intent of the Legislature, in enacting the amendments to this section enacted at the 1994 portion of the 1993–94 Regular Session, that the express language of revival added to this section by those amendments shall apply to any action commenced on or after January 1, 1991.

(t) Nothing in the amendments to this section enacted at the 1998 portion of the 1997–98 Regular Session is intended to create a new theory of liability.

(u) The amendments to subdivision (a) of this section, enacted at the 1998 portion of the 1997–98 Regular Session, shall apply to any action commenced on or after January 1, 1999, and to any action filed prior to January 1, 1999, and still pending on that date, including any action or causes of action which would have been barred by the laws in effect prior to January 1, 1999. Nothing in this subdivision is intended to revive actions or causes of action as to which there has been a final adjudication prior to January 1, 1999.

CHAPTER 150

An act to amend Sections 21300, 21305, and 21320 of the Probate Code, relating to wills.

[Approved by Governor July 10, 2002. Filed with Secretary of State July 11, 2002.]

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

SECTION 1. Section 21300 of the Probate Code is amended to read:
21300. As used in this part:
(a) “Contest” means any action identified in a “no contest clause” as a violation of the clause. The term includes both direct and indirect contests.
(b) “Direct contest” in an instrument or in this chapter means a pleading in a proceeding in any court alleging the invalidity of an instrument or one or more of its terms based on one or more of the following grounds:

1. Revocation.
2. Lack of capacity.
3. Fraud.
5. Menace.
6. Duress.
8. Mistake.
9. Lack of due execution.
10. Forgery.

(c) “Indirect contest” means a pleading in a proceeding in any court that indirectly challenges the validity of an instrument or one or more of its terms based on any other ground not contained in subdivision (b), and that does not contain any of those grounds.

(d) “No contest clause” means a provision in an otherwise valid instrument that, if enforced, would penalize a beneficiary if the beneficiary files a contest with the court.

SEC. 2. Section 21305 of the Probate Code is amended to read:

21305. (a) For instruments executed on or after January 1, 2001, the following actions do not constitute a contest unless expressly identified in the no contest clause as a violation of the clause:

1. The filing of a creditor’s claim or prosecution of an action based upon it.
2. An action or proceeding to determine the character, title, or ownership of property.
3. A challenge to the validity of an instrument, contract, agreement, beneficiary designation, or other document, other than the instrument containing the no contest clause.

(b) Except as provided in subdivision (d), notwithstanding anything to the contrary in any instrument, the following proceedings do not violate a no contest clause as a matter of public policy:

1. A pleading seeking relief under Chapter 3 (commencing with Section 15400) of Part 2 of Division 9.
2. A pleading under Part 3 (commencing with Section 1800) of Division 4.
3. A pleading under Part 2 (commencing with Section 4100) of Division 4.5.
4. A pleading regarding an order annulling a marriage of the person who executed the instrument containing the no contest clause.
5. A pleading pursuant to Section 2403.
(6) A pleading challenging the exercise of a fiduciary power.

(7) A pleading regarding the appointment of a fiduciary or the removal of a fiduciary.

(8) A pleading regarding an accounting or report of a fiduciary.

(9) A pleading regarding the interpretation of the instrument containing the no contest clause or an instrument or other document expressly identified in the no contest clause.

(10) A pleading regarding the approval of a settlement or compromise whether or not it affects the terms of an instrument.

(11) A pleading regarding the reformation of an instrument to carry out the intention of the person creating the instrument.

(12) A petition to compel an accounting or report of a fiduciary, if that accounting or report is not waived by the instrument. If the instrument waives an accounting or report of a fiduciary, a petition to determine if subdivision (a) of Section 16064 applies does not constitute a violation of a no contest clause.

(c) Subdivision (a) does not apply to a codicil or amendment to an instrument that was executed on or after January 1, 2001, unless the codicil or amendment adds a no contest clause or amends a no contest clause contained in an instrument executed before January 1, 2001.

(d) Subdivision (b) shall apply only to instruments of decedents dying on or after January 1, 2001, and to documents that become irrevocable on or after January 1, 2001. However, paragraphs (9), (11), and (12) of subdivision (b) shall only apply to instruments of decedents dying on or after January 1, 2003, and to documents that become irrevocable on or after January 1, 2003.

(e) The provisions of paragraphs (6), (9), and (11) of subdivision (b) do not apply if the court finds that the filing of the pleading is a direct contest of an instrument or any of its terms, as defined in Section 21300.

(f) The term “pleading” in subdivision (b) includes a petition, complaint, response, objection, or other document filed with the court that expresses the position of a party to the proceedings.

SEC. 3. Section 21320 of the Probate Code is amended to read:

21320. (a) If an instrument containing a no contest clause is or has become irrevocable, a beneficiary may apply to the court for a determination of whether a particular motion, petition, or other act by the beneficiary, including, but not limited to, creditor claims under Part 4 (commencing with Section 9000) of Division 7, Part 8 (commencing with Section 19000) of Division 9, an action pursuant to Section 21305, and an action under Part 7 (commencing with Section 21700) of Division 11, would be a contest within the terms of the no contest clause.

(b) A no contest clause is not enforceable against a beneficiary to the extent an application under subdivision (a) is limited to the procedure and purpose described insubdivision (a).
(c) A determination under this section of whether a proposed motion, petition, or other act by the beneficiary violates a no contest clause may not be made if a determination of the merits of the motion, petition, or other act by the beneficiary is required.

(d) A determination of whether Section 21306 or 21307 would apply in a particular case may not be made under this section.

CHAPTER 151

An act to amend Section 48900 of the Education Code, relating to pupil suspension and expulsion.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]

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

SECTION 1. Section 48900 of the Education Code is amended to read:

48900. A pupil may not be suspended from school or recommended for expulsion unless the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to one or more of subdivisions (a) to (p), inclusive:

(a) (1) Caused, attempted to cause, or threatened to cause physical injury to another person.

(2) Willfully used force or violence upon the person of another, except in self-defense.

(b) Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.

(c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

(d) Unlawfully offered, arranged, or negotiated to sell any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and then either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and
represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

(e) Committed or attempted to commit robbery or extortion.

(f) Caused or attempted to cause damage to school property or private property.

(g) Stolen or attempted to steal school property or private property.

(h) Possessed or used tobacco, or any products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a pupil of his or her own prescription products.

(i) Committed an obscene act or engaged in habitual profanity or vulgarity.

(j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.

(k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

(l) Knowingly received stolen school property or private property.

(m) Possessed an imitation firearm. As used in this section, “imitation firearm” means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.

(n) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.

(o) Harassed, threatened, or intimidated a pupil who is a complaining witness or witness in a school disciplinary proceeding for the purpose of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.

(p) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.

(q) A pupil may not be suspended or expelled for any of the acts enumerated unless that act is related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to school activity or attendance that occur at any time, including, but not limited to, any of the following:

(1) While on school grounds.

(2) While going to or coming from school.

(3) During the lunch period whether on or off the campus.
(4) During, or while going to or coming from, a school sponsored activity.

(r) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may suffer suspension, but not expulsion, pursuant to the provisions of this section, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).

(s) A superintendent or principal may use their discretion to provide alternatives to suspension or expulsion, including, but not limited to, counseling and an anger management program, for a pupil subject to discipline under this section.

(t) It is the intent of the Legislature that alternatives to suspensions or expulsion be imposed against any pupil who is truant, tardy, or otherwise absent from school activities.

CHAPTER 152

An act to add Sections 7093.6, 9278, 50156.18, and 55046.5 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]

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

SECTION 1. Section 7093.6 is added to the Revenue and Taxation Code, to read:

7093.6. (a) (1) Beginning January 1, 2003, the executive director and chief counsel of the board, or their delegates, may compromise any final tax liability in which the reduction of tax is seven thousand five hundred dollars ($7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final tax liability involving a reduction in tax in excess of seven thousand five hundred dollars ($7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a
final tax liability in which the reduction of tax is in excess of seven thousand five hundred dollars ($7,500), but less than ten thousand dollars ($10,000).

(b) For purposes of this section, “a final tax liability” means any final tax liability arising under Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), Part 1.6 (commencing with Section 7251), and Part 1.7 (commencing with Section 7280) or related interest, additions to tax, penalties, or other amounts assessed under this part.

(c) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the taxpayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(d) For amounts to be compromised under this section, the following conditions shall exist:

(1) The taxpayer shall establish that:
   (A) The amount offered in payment is the most that can be expected to be paid or collected from the taxpayer’s present assets or income.
   (B) The taxpayer does not have reasonable prospects of acquiring increased income or assets that would enable the taxpayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(e) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final tax liability shall not be subject to administrative appeal or judicial review.

(f) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the taxpayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the taxpayer.

(g) When more than one taxpayer is liable for the debt, such as with spouses or partnerships or other business combinations, the acceptance of an offer in compromise from one liable taxpayer shall not relieve the other taxpayers from paying the entire liability. However, the amount of the liability shall be reduced by the amount of the accepted offer.

(h) Whenever a compromise of tax or penalties or total tax and penalties in excess of five hundred dollars ($500) is approved, there shall be placed on file for a least one year in the office of the executive director
of the board a public record with respect to that compromise. The public record shall include all of the following information:

1. The name of the taxpayer.
2. The amount of unpaid tax and related penalties, additions to tax, interest, or other amounts involved.
3. The amount offered.
4. A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or violate the confidentiality provisions of Section 7056. No list shall be prepared and no releases distributed by the board in connection with these statements.

i) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished (without regard to any statute of limitations that otherwise may be applicable), and no portion of the amount offered in compromise refunded, if either of the following occurs:

1. The board determines that any person did any of the following acts regarding the making of the offer:
   A. Concealed from the board any property belonging to the estate of any taxpayer or other person liable for the tax.
   B. Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the taxpayer or other person liable for the tax.

2. The taxpayer fails to comply with any of the terms and conditions relative to the offer.

j) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars ($50,000) or imprisoned not more than three years, or both, together with the costs of investigation and prosecution:

1. Conceals from any officer or employee of this state any property belonging to the estate of a taxpayer or other person liable in respect of the tax.

2. Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax.

k) For purposes of this section, “person” means the taxpayer, any member of the taxpayer’s family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of,
the taxpayer, or any other corporation or entity owned or controlled by the taxpayer, directly or indirectly, or that owns or controls the taxpayer, directly or indirectly.

SEC. 2. Section 9278 is added to the Revenue and Taxation Code, to read:

9278. (a) (1) Beginning January 1, 2003, the executive director and chief counsel of the board, or their delegates, may compromise any final tax liability in which the reduction of tax is seven thousand five hundred dollars ($7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final tax liability involving a reduction in tax in excess of seven thousand five hundred dollars ($7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final tax liability in which the reduction of tax is in excess of seven thousand five hundred dollars ($7,500), but less than ten thousand dollars ($10,000).

(b) For purposes of this section, “a final tax liability” means any final tax liability arising under Part 3 (commencing with Section 8601), or related interest, additions to tax, penalties, or other amounts assessed under this part.

(c) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the taxpayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(d) For amounts to be compromised under this section, the following conditions shall exist:

(1) The taxpayer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the taxpayer’s present assets or income.

(B) The taxpayer does not have reasonable prospects of acquiring increased income or assets that would enable the taxpayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.

(e) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of
a final tax liability shall not be subject to administrative appeal or judicial review.

(f) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the taxpayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the taxpayer.

(g) When more than one taxpayer is liable for the debt, such as with spouses or partnerships or other business combinations, the acceptance of an offer in compromise from one liable taxpayer shall not relieve the other taxpayers from paying the entire liability. However, the amount of the liability shall be reduced by the amount of the accepted offer.

(h) Whenever a compromise of tax or penalties or total tax and penalties in excess of five hundred dollars ($500) is approved, there shall be placed on file for at least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

1. The name of the taxpayer.
2. The amount of unpaid tax and related penalties, additions to tax, interest, or other amounts involved.
3. The amount offered.
4. A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or violate the confidentiality provisions of Section 9255. No list shall be prepared and no releases distributed by the board in connection with these statements.

(i) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished (without regard to any statute of limitations that otherwise may be applicable), and no portion of the amount offered in compromise refunded, if either of the following occurs:

1. The board determines that any person did any of the following acts regarding the making of the offer:
   A. Concealed from the board any property belonging to the estate of any taxpayer or other person liable for the tax.
   B. Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the taxpayer or other person liable for the tax.
2. The taxpayer fails to comply with any of the terms and conditions relative to the offer.
(j) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars ($50,000) or imprisoned not more than three years, or both, together with the costs of investigation and prosecution:

1. Conceals from any officer or employee of this state any property belonging to the estate of a taxpayer or other person liable in respect of the tax.

2. Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax.

(k) For purposes of this section, “person” means the taxpayer, any member of the taxpayer’s family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the taxpayer, or any other corporation or entity owned or controlled by the taxpayer, directly or indirectly, or that owns or controls the taxpayer, directly or indirectly.

SEC. 3. Section 50156.18 is added to the Revenue and Taxation Code, to read:

50156.18. (a) (1) Beginning January 1, 2003, the executive director and chief counsel of the board, or their delegates, may compromise any final fee liability in which the reduction of the fee is seven thousand five hundred dollars ($7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final fee liability involving a reduction in the fee in excess of seven thousand five hundred dollars ($7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final fee liability in which the reduction of the fee is in excess of seven thousand five hundred dollars ($7,500), but less than ten thousand dollars ($10,000).

(b) For purposes of this section, “a final fee liability” means any final fee liability arising under Part 26 (commencing with Section 50101), or related interest, additions to the fee, penalties, or other amounts assessed under this part.

(c) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the feepayer making the offer no longer has a
controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(d) For amounts to be compromised under this section, the following conditions shall exist:

1. The feepayer shall establish that:
   A. The amount offered in payment is the most that can be expected to be paid or collected from the feepayer’s present assets or income.
   B. The feepayer does not have reasonable prospects of acquiring increased income or assets that would enable the feepayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

2. The board shall have determined that acceptance of the compromise is in the best interest of the state.

(e) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final fee liability shall not be subject to administrative appeal or judicial review.

(f) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the feepayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the feepayer.

(g) When more than one feepayer is liable for the debt, such as with spouses or partnerships or other business combinations, the acceptance of an offer in compromise from one liable feepayer shall not relieve the other feepayers from paying the entire liability. However, the amount of the liability shall be reduced by the amount of the accepted offer.

(h) Whenever a compromise of the fee or penalties or total fees and penalties in excess of five hundred dollars ($500) is approved, there shall be placed on file for at least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:

1. The name of the feepayer.
2. The amount of unpaid fees and related penalties, additions to fees, interest, or other amounts involved.
3. The amount offered.
4. A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the feepayer or violate the confidentiality provisions of Chapter 8 of Article
2 (commencing with Section 50156). No list shall be prepared and no releases distributed by the board in connection with these statements.

(i) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished (without regard to any statute of limitations that otherwise may be applicable), and no portion of the amount offered in compromise refunded, if either of the following occurs:

1. The board determines that any person did any of the following acts regarding the making of the offer:
   A. Concealed from the board any property belonging to the estate of any feepayer or other person liable for the fee.
   B. Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the feepayer or other person liable for the fee.

2. The feepayer fails to comply with any of the terms and conditions relative to the offer.

(j) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars ($50,000) or imprisoned not more than three years, or both, together with the costs of investigation and prosecution:

1. Conceals from any officer or employee of this state any property belonging to the estate of a feepayer or other person liable in respect of the fee.

2. Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the feepayer or other person liable in respect of the fee.

(k) For purposes of this section, “person” means the feepayer, any member of the feepayer’s family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the feepayer, or any other corporation or entity owned or controlled by the feepayer, directly or indirectly, or that owns or controls the feepayer, directly or indirectly.

SEC. 4. Section 55046.5 is added to the Revenue and Taxation Code, to read:

55046.5. If the board finds that a person’s failure to make a timely return or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of interest provided by Sections 55041, 55042, 55050, and 55061.
Any person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

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 153

An act to amend Section 10205 of the Government Code, relating to the Legislative Counsel.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]

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

SECTION 1. Section 10205 of the Government Code is amended to read:

10205. (a) The Legislative Counsel may employ and fix the compensation, in accordance with law, of such professional assistants and clerical and other employees as he or she deems necessary for the effective conduct of the work under his or her charge.

(b) The Legislative Counsel and the employees of the Legislative Counsel Bureau shall, to the extent that funds appropriated for the support of the Legislative Counsel Bureau include funds for that purpose, receive any or all of the employee benefits provided to employees of either house of the Legislature. The benefits that are authorized by this subdivision shall be in addition to any other employee benefits authorized by any other provision of law.

(c) Notwithstanding subdivision (c) of Section 19853, the Legislative Counsel and the employees of the Legislative Counsel Bureau shall observe any holiday designated pursuant to subdivision (c) of Section 19853, that is also observed by the Legislature, on the same day that the holiday is observed by the Legislature.
An act to amend Section 8314 of the Government Code, and to amend Section 424 of the Penal Code, relating to public resources.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]

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

SECTION 1. Section 8314 of the Government Code is amended to read:

8314. (a) It shall be unlawful for any elected state or local officer, including any state or local appointee, employee, or consultant, to use or permit others to use public resources for a campaign activity, or personal or other purposes which are not authorized by law.

(b) For purposes of this section:

(1) “Personal purpose” means those activities the purpose of which is for personal enjoyment, private gain or advantage, or an outside endeavor not related to state business. “Personal purpose” does not include the incidental and minimal use of public resources, such as equipment or office space, for personal purposes, including an occasional telephone call.

(2) “Campaign activity” means an activity constituting a contribution as defined in Section 82015 or an expenditure as defined in Section 82025. “Campaign activity” does not include the incidental and minimal use of public resources, such as equipment or office space, for campaign purposes, including the referral of unsolicited political mail, telephone calls, and visitors to private political entities.

(3) “Public resources” means any property or asset owned by the state or any local agency, including, but not limited to, land, buildings, facilities, funds, equipment, supplies, telephones, computers, vehicles, travel, and state compensated time.

(4) “Use” means a use of public resources which is substantial enough to result in a gain or advantage to the user or a loss to the state or any local agency for which a monetary value may be estimated.

(c) (1) Any person who intentionally or negligently violates this section shall be liable for a civil penalty not to exceed one thousand dollars ($1,000) for each day on which a violation occurs, plus three times the value of the unlawful use of public resources. The penalty shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney or any city attorney of a city having a population in excess of 750,000. If two or more persons are responsible for any violation, they shall be jointly and severally liable for the penalty.
(2) If the action is brought by the Attorney General, the moneys recovered shall be paid into the General Fund. If the action is brought by a district attorney, the moneys recovered shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney, the moneys recovered shall be paid to the treasurer of that city.

(3) No civil action alleging a violation of this section shall be commenced more than four years after the date the alleged violation occurred.

(d) Nothing in this section shall prohibit the use of public resources for providing information to the public about the possible effects of any bond issue or other ballot measure on state activities, operations, or policies, provided that (1) the informational activities are otherwise authorized by the constitution or laws of this state, and (2) the information provided constitutes a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the bond issue or ballot measure.

(e) The incidental and minimal use of public resources by an elected state or local officer, including any state or local appointee, employee, or consultant, pursuant to this section shall not be subject to prosecution under Section 424 of the Penal Code.

SEC. 2. Section 424 of the Penal Code is amended to read:

424. (a) Each officer of this state, or of any county, city, town, or district of this state, and every other person charged with the receipt, safekeeping, transfer, or disbursement of public moneys, who either:

1. Without authority of law, appropriates the same, or any portion thereof, to his own use, or to the use of another; or,

2. Loans the same or any portion thereof; makes any profit out of, or uses the same for any purpose not authorized by law; or,

3. Knowingly keeps any false account, or makes any false entry or erasure in any account of or relating to the same; or,

4. Fraudulently alters, falsifies, conceals, destroys, or obliterates any such account; or,

5. Willfully refuses or omits to pay over, on demand, any public moneys in his hands, upon the presentation of a draft, order, or warrant drawn upon such moneys by competent authority; or,

6. Willfully omits to transfer the same, when such transfer is required by law; or,

7. Willfully omits or refuses to pay over to any officer or person authorized by law to receive the same, any money received by him under any duty imposed by law so to pay over the same;—

Is punishable by imprisonment in the state prison for two, three or four years, and is disqualified from holding any office in this state.
(b) As used in this section, “public moneys” includes the proceeds derived from the sale of bonds or other evidence or indebtedness authorized by the legislative body of any city, county, district, or public agency.
(c) This section does not apply to the incidental and minimal use of public resources authorized by Section 8314 of the Government Code.

CHAPTER 155

An act to add Section 6718 to the Government Code, relating to Juneteenth National Freedom Day.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]

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

SECTION 1. The Legislature hereby finds and declares all of the following:
(a) Juneteenth National Freedom Day, also known as “Emancipation Day,” “Emancipation Celebration,” “Freedom Day,” “Jun-Jun,” and “Juneteenth,” was first observed 136 years ago and is the oldest and only African American holiday observance in the United States.
(b) Juneteenth National Freedom Day commemorates the strong survival instinct of African Americans who were first brought to this country stacked in the bottom of slave ships in a monthlong journey across the Atlantic Ocean known as the “Middle Passage”.
(c) Events in the history of the United States that led to the start of the Civil War in 1861 centered on sectional differences between the North and the South that were based on the economic and social divergence caused by the existence of slavery. In 1862, the first clear signs that the end of slavery was imminent appeared when laws abolishing slavery were adopted in the territories of Oklahoma, Nebraska, Colorado, and New Mexico.
(d) In September 1862, President Lincoln issued the celebrated Emancipation Proclamation, warning the rebellious Confederate states that he would declare their slaves “forever free” if those states did not return to the Union by January 1, 1863. Enforcement of the Emancipation Proclamation occurred only in Confederate states that were under Union Army control.
(e) On January 31, 1865, Congress passed the Thirteenth Amendment to the United States Constitution, which abolished slavery throughout the United States and its territories. Spontaneous celebration
erupted throughout the country when African Americans learned of their freedom. Juneteenth, or June 19, 1865, is considered the date when the last slaves in America were freed when General Gordon Granger rode into Galveston, Texas, and issued General Order No. 3, almost two and one-half years after President Lincoln issued the Emancipation Proclamation.

(f) Observance of Juneteenth National Freedom Day, a reminder of emancipation, spread from Texas to the neighboring States of Louisiana, Arkansas, and Oklahoma, as well as Alabama, Florida, and California, where many African American Texans migrated. Juneteenth National Freedom Day symbolizes freedom, celebrates the abolishment of slavery, and reminds all Americans of the significant contributions of African Americans to our society.

(g) A growing number of American and African American cultural institutions have sponsored Juneteenth cultural events designed to make all Americans aware of this celebration, including the Smithsonian Institution National Museum of American History in Washington, DC, the Chicago Historical Society, the Black Archives of Mid-America, Inc., in Kansas City, Missouri, the Los Angeles Cultural Center, the Henry Ford Museum and Greenfield Village in Detroit, the Museum of African American Life and Culture in Dallas, Juneteenth America, Inc., of Ontario, California, and the National Juneteenth Observance Foundation. Juneteenth celebrations are a tribute to those African Americans who fought so long and worked so hard to make the dream of equality a reality.

SEC. 2. Section 6718 is added to the Government Code, to read:

6718. The Governor shall proclaim the third Saturday in June of each year to be known as “Juneteenth National Freedom Day: A day of observance,” to urge the people of California in celebrating this day to honor and reflect on the significant role that African Americans have played in the history of the United States and how African Americans have enriched society through their steadfast commitment to promoting brotherhood and equality.

CHAPTER 156

An act to amend Section 11125.1 of the Government Code, relating to public records.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]
The people of the State of California do enact as follows:

SECTION 1. Section 11125.1 of the Government Code is amended to read:

11125.1. (a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and other writings, when distributed to all, or a majority of all, of the members of a state body by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7 of this code, or Section 489.1 or 583 of the Public Utilities Code.

(b) Writings that are public records under subdivision (a) and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person.

(c) In the case of the Franchise Tax Board, prior to that state body taking final action on any item, writings pertaining to that item that are public records under subdivision (a) that are distributed to members of the state body by board staff or individual members prior to or during a meeting shall be:

(1) Made available for public inspection at that meeting.

(2) Distributed to all persons who request notice in writing pursuant to subdivision (a) of Section 11125.

(3) Made available on the Internet.

(d) Prior to the State Board of Equalization taking final action on any item that does not involve a named tax or fee payer, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by board staff or individual members to members of the state body prior to or during a meeting shall be:

(1) Made available for public inspection at that meeting.

(2) Distributed to all persons who request or have requested copies of these writings.

(3) Made available on the Internet.

(e) Nothing in this section shall be construed to prevent a state body from charging a fee or deposit for a copy of a public record pursuant to Section 6257. The writings described in subdivision (b) are subject to the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall not be construed to limit or delay the public’s right to inspect any record.
required to be disclosed by that act, or to limit the public’s right to inspect any record covered by that act. This section shall not be construed to be applicable to any writings solely because they are properly discussed in a closed session of a state body. Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication.

(f) “Writing” for purposes of this section means “writing” as defined under Section 6252.

CHAPTER 157

An act to amend and repeal Section 58889 of the Food and Agricultural Code, relating to milk.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]

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

SECTION 1. Section 58889 of the Food and Agricultural Code, as amended by Section 1 of Chapter 912 of the Statutes of 1998, is amended to read:

58889. (a) A marketing order may contain provisions for the establishment of plans for advertising and sales promotion to maintain present markets or to create new or larger markets for any commodity that is grown in this state, or for the prevention, modification, or removal of trade barriers that obstruct the free flow of any commodity to market. The secretary may prepare, issue, administer, and enforce plans for promoting the sale of any commodity.

(b) Any plan shall be directed toward increasing the sale of the commodity without reference to any private brand or trade name that is used by any handler with respect to the commodity regulated by the marketing order, except the use of wine if other than private brands or private trade names are unavailable, and except that marketing orders that provide for the advertising and sales promotion of raisins, prunes, and walnuts may allow those plans to credit the pro rata assessment obligations of a handler with all or any portion of that handler’s direct expenditures for the marketing promotion that may include private brand or trade name advertising performance allowances, sales promotions, couponing, and in-store promotion programs and materials.

(c) (1) Notwithstanding any provision of this section, any marketing order for fluid milk may contain in its advertising and sales promotion plan provisions to allocate funds for promotions of cheese, ice cream, or
butter products made with California milk, including promotions in which brand or trade names are used, but only if the use is incidental to the promotion of the California milk product and not in direct promotion of the brand or trade name, and if the allocation of funds is made available on a nondiscriminatory basis to all retailers and manufacturers of butter, ice cream, or cheese utilizing milk produced in California. Permissible private brand or trade name marketing promotions may include advertising, performance allowances, sales promotions, couponing subject to Section 61375 and in-store promotion programs and materials, and other marketing communication tools.

(2) For purposes of this subdivision, “butter” means the product made by gathering the fat of fresh or ripened milk or cream into a mass, which also contains a small portion of other milk constituents.

(3) This subdivision shall not become operative unless approved as set forth in subdivision (c) of Section 58993.

(d) No advertising or sales promotion program shall be issued by the secretary that makes use of false or unwarranted claims in behalf of any product, or disparages the quality, value, sale, or use of any other commodity.

SEC. 2. Section 58889 of the Food and Agricultural Code, as added by Section 2 of Chapter 912 of the Statutes of 1998, is repealed.

CHAPTER 158

An act to amend Section 1226 of the Financial Code relating to banking.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]

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

SECTION 1. Section 1226 of the Financial Code is amended to read:

1226. The limitations of Section 1221 shall not apply to the following and the following shall not be included among the obligations of a person for the purpose of applying such limitations:

(a) Loans secured by obligations of the United States or by obligations unconditionally guaranteed both as to principal and interest by the United States, having a market value at least 10 percent in excess of the loans secured thereby.

(b) Loans in an amount and of a type or class previously approved in writing by the commissioner which are secured by not less than a like
amount of obligations of the United States or by obligations unconditionally guaranteed both as to principal and interest by the United States.

(c) Loans to the extent that they are covered by guarantees or by commitments to take over or to purchase without recourse made by (1) any Federal Reserve bank, (2) the United States, (3) any department, bureau, board, commission, agency, or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States or (4) any small business development corporation, urban development corporation, or rural development corporation incorporated pursuant to the California Job Creation Law (Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code).

(d) Drafts or bills of exchange drawn in good faith against actual existing values with negotiable bills of lading attached, whether or not accepted by the drawee.

(e) Bankers’ acceptances of other banks which are eligible for rediscount with a Federal Reserve bank.

(f) Obligations resulting from daily clearances through any clearinghouse association.

(g) Obligations which are fully guaranteed or fully insured or covered by a commitment to fully guarantee or fully insure by the Federal Housing Administrator.

(h) Obligations described in Section 1336.

(i) Obligations, including portions thereof, to the extent secured by a segregated deposit account in the lending bank, provided a security interest in the deposit has been perfected under applicable law, and subject to all of the following conditions:

(1) Where the deposit is eligible for withdrawal before the secured obligation matures, the lending bank shall establish internal procedures to prevent release of the security without the lending bank’s prior consent.

(2) A deposit that is denominated and payable in a currency other than that of the obligation that it secures may be eligible for this exception if the currency is freely convertible to United States’ dollars.

(A) This exception applies only to that portion of the obligation that is covered by the United States dollar value of the deposit.

(B) The lending bank shall establish procedures to periodically revalue foreign currency deposits to ensure that the loan or extension of credit remains fully secured at all times.
An act to amend Section 36933 of the Government Code, relating to ordinances.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]

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

SECTION 1. Section 36933 of the Government Code is amended to read:

36933. (a) Within 15 days after its passage, the city clerk shall cause each ordinance to be published at least once, with the names of those city council members voting for and against the ordinance, in a newspaper of general circulation published and circulated in the city, or if there is none, he or she shall cause it to be posted in at least three public places in the city or published in a newspaper of general circulation printed and published in the county and circulated in the city. In cities incorporated less than one year, the city council may determine whether ordinances are to be published or posted. Ordinances shall not be published in a newspaper if the charge exceeds the customary rate charged by the newspaper for publication of private legal notices, but these ordinances shall be posted in the manner and at the time required by this section.

(b) Except as provided in Section 36937, an ordinance shall not take effect or be valid unless it is published or posted in substantially the manner and at the time required by this section.

(c) The publication or posting of ordinances, as required by subdivision (a), may be satisfied by either of the following actions:

(1) The city council may publish a summary of a proposed ordinance or proposed amendment to an existing ordinance. The summary shall be prepared by an official designated by the city council. A summary shall be published and a certified copy of the full text of the proposed ordinance or proposed amendment shall be posted in the office of the city clerk at least five days prior to the city council meeting at which the proposed ordinance or amendment or alteration thereto is to be adopted. Within 15 days after adoption of the ordinance or amendment, the city council shall publish a summary of the ordinance or amendment with the names of those city council members voting for and against the ordinance or amendment and the city clerk shall post in the office of the city clerk a certified copy of the full text of the adopted ordinance or amendment along with the names of those city council members voting for and against the ordinance or amendment; or
(2) If the city official designated by the city council determines that it is not feasible to prepare a fair and adequate summary of the proposed or adopted ordinance or amendment, and if the city council so orders, a display advertisement of at least one-quarter of a page in a newspaper of general circulation in the city shall be published at least five days prior to the city council meeting at which the proposed ordinance or amendment or alteration thereto is to be adopted. Within 15 days after adoption of the ordinance or amendment, a display advertisement of at least one-quarter of a page shall be published. The advertisement shall indicate the general nature of, and provide information about, the proposed or adopted ordinance or amendment, including information sufficient to enable the public to obtain copies of the complete text of the ordinance or amendment, and the names of those city council members voting for and against the ordinance or amendment.

(d) (1) Any member of the public may file with the city clerk, or any other person designated by the governing body to receive these requests, a request for notice of specific proposed ordinances or proposed amendments to ordinances.

(2) Notice pursuant to paragraph (1) shall be mailed or otherwise transmitted at least five days before the council is scheduled to take action on the proposed ordinances or proposed amendments to an ordinance. Notice may be given by written notice properly mailed or by e-mail if the requesting member of the public provides an e-mail address. Notice may be in the form specified in either paragraph (1) or (2) of subdivision (c), as determined by the city council.

(3) As an alternative to providing notice as requested of specific proposed ordinances or proposed amendments to ordinances, the city clerk, or other person designated by the governing body, may place the requesting member of the public on a general mailing list that gives timely notice of all governing body public meetings at which proposed ordinances or proposed amendments to ordinances may be heard, as provided in Section 54954.1. If this alternative is selected, the requesting member of the public shall be so advised.

(4) The city may charge a fee that is reasonably related to the costs of providing notice pursuant to this subdivision. The city may require each request to be annually renewed.

(5) Failure of the requesting person to receive the information pursuant to this subdivision shall not constitute grounds for any court to invalidate an otherwise properly adopted ordinance or amendment to an ordinance.

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

CHAPTER 160

An act to amend Section 296 of the Penal Code, relating to DNA collection, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]

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

SECTION 1. Section 296 of the Penal Code is amended to read:

296. (a) (1) Any person who is convicted of any of the following crimes, or is found not guilty by reason of insanity of any of the following crimes, shall, regardless of sentence imposed or disposition rendered, be required to provide two specimens of blood, a saliva sample, right thumbprints, and a full palm print impression of each hand for law enforcement identification analysis:

(A) Any offense or attempt to commit any felony offense described in Section 290, or any felony offense that imposes upon a person the duty to register in California as a sex offender under Section 290.

(B) Murder in violation of Section 187, 190, 190.05, or any degree of murder as set forth in Chapter 1 (commencing with Section 187) of Title 8 of Part 1 of the Penal Code, or any attempt to commit murder.

(C) Voluntary manslaughter in violation of Section 192 or an attempt to commit voluntary manslaughter.

(D) Felony spousal abuse in violation of Section 273.5.

(E) Aggravated sexual assault of a child in violation of Section 269.

(F) A felony offense of assault or battery in violation of Section 217.1, 220, 241.1, 243, 243.1, 243.3, 243.4, 243.7, 244, 245, 245.2, 245.3, or 245.5.

(G) Kidnapping in violation of subdivisions (a) to (e), inclusive, of Section 207, or Section 208, 209, 209.5, or 210, or an attempt to commit any of these offenses.

(H) Mayhem in violation of Section 203 or aggravated mayhem in violation of Section 205, or an attempt to commit either of these offenses.

(I) Torture in violation of Section 206 or an attempt to commit torture.

(J) Burglary as defined in subdivision (a) of Section 460 or an attempt to commit this offense.
(K) Robbery as defined in subdivision (a) or (b) of Section 212.5 or an attempt to commit either of these offenses.

(L) Arson in violation of subdivision (a) or (b) of Section 451 or an attempt to commit either of these offenses.

(M) Carjacking in violation of Section 215 or an attempt to commit this offense.

(N) Terrorist activity in violation of Section 11418 or 11419, or a felony violation of Section 11418.5, or an attempt to commit any of these offenses.

(2) Any person who is required to register under Section 290 because of the commission of, or the attempt to commit, a felony offense specified in Section 290, and who is committed to any institution under the jurisdiction of the Department of the Youth Authority where he or she was confined, or is granted probation, or is or was committed to a state hospital as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall be required to provide two specimens of blood, a saliva sample, right thumbprints, and a full palm print impression of each hand to that institution or, in the case of a person granted probation, to a person and at a location within the county designated for testing.

(b) The provisions of this chapter and its requirements for submission to testing as soon as administratively practicable to provide specimens, samples, and print impressions as described in subdivision (a) shall apply regardless of placement or confinement in any mental hospital or other public or private treatment facility, and shall include, but not be limited to, the following persons, including juveniles:

(1) Any person committed to a state hospital or other treatment facility as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(2) Any person who has a severe mental disorder as set forth within the provisions of Article 4 (commencing with Section 2960) of Chapter 7 of Title 1 of Part 3 of the Penal Code.

(3) Any person found to be a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(c) The provisions of this chapter are mandatory and apply whether or not the court advises a person, including any juvenile, that he or she must provide the databank and database specimens, samples, and print impressions as a condition of probation, parole, or any plea of guilty, no contest, or not guilty by reason of insanity, to any of the offenses described in subdivision (a).
(d) At sentencing or disposition, the prosecuting attorney shall verify in writing that the requisite samples are required by law, and that they have been taken, or are scheduled to be taken before the offender is released on probation, or other scheduled release. However, a failure by the prosecuting attorney or any other law enforcement agency to verify sample requirement or collection shall not relieve a person of the requirement to provide samples.

(e) The abstract of judgment issued by the court shall indicate that the court has ordered the person to comply with the requirements of this chapter and that the person shall be included in the state’s DNA and Forensic Identification Data Base and Data Bank program and be subject to this chapter. However, failure by the court to enter these facts in the abstract of judgment shall not invalidate a plea, conviction, or disposition, or otherwise relieve a person from the requirements of this chapter.

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

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To investigate, prosecute, and prevent terrorism, which poses an immediate and ongoing threat to the safety of this state and its citizens, it is necessary that this act go into immediate effect.

CHAPTER 161

An act to amend Section 8503 of the Revenue and Taxation Code, relating to transportation.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]

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

SECTION 1. Section 8503 of the Revenue and Taxation Code is amended to read:
8503. (a) Prior to imposing the tax, the commission shall adopt a regional transportation expenditure plan for the revenues derived from the tax. The regional transportation expenditure plan shall describe specific proposed transportation projects and the estimated cost of each project.

(b) The regional transportation expenditure plan shall also meet the following minimum objectives and criteria:

(1) Project expenditures shall reflect an equitable distribution of revenues throughout the region with not less than 95 percent of revenues from each county, based on population, being invested over the 20-year life of the tax in projects attributable to that county. In addition, during every five-year period, no less than 80 percent of the revenues from each county, based on population, invested during that period shall be invested in projects attributable to that county. The commission shall allocate any accrued interest according to the same formula. At the time of the development of the expenditure plan, the commission shall use population data from the most recent United States census, and shall take into account estimated increases in population over the 20-year period projected by the Association of Bay Area Governments.

(2) Projects included in the expenditure plan shall be consistent with the commission’s regional transportation plan, a congestion management program, or a countywide transportation plan. The commission shall, in prioritizing projects in the expenditure plan, give additional consideration to projects where local land use policies reduce dependence on single-occupant motor vehicle travel. The expenditure plan development process shall include consultation with cities, counties, transit operators, congestion management agencies, and other interested groups.

(3) Cost estimates for each project shall be prepared by the commission, in consultation with project sponsors, and verified by an independent cost-estimating firm retained by the commission for that purpose. Estimates of other funding required to complete any project shall be based on an estimate of funds reasonably expected to be available during the 20-year period commencing with the year that the tax is initially imposed.

(4) To be eligible for inclusion in the expenditure plan, a project shall meet at least one of the following regional transportation needs:

(A) Fund maintenance and rehabilitation of local streets and roads, sidewalks, or bicycle routes, or close a gap in the local street and road system.

(B) Fund capital or operating expenses of public transit systems.

(C) Fund transit expansion projects in the commission’s Resolution 3434, Regional Transit Expansion Program as contained in the commission’s regional transportation plan.
(D) Provide an alternative to single occupancy automobile travel.

(E) Improve safety on specific roadway segments where accident or fatality rates exceed the expected rate for those segments over a multiyear timeframe, including, but not limited to, expansion or realignment of the roadway.

(F) Improve the operational efficiency of the existing roadway system without a physical expansion of the system. However, expansion projects to reconfigure existing interchanges are eligible for inclusion in the plan.

(G) Fund implementation of the requirements of the federal Americans with Disabilities Act of 1990 (P.L. 101-336), or those requirements as revised, on public transit systems and other transportation-related facilities.

(H) Fund seismic retrofitting of transportation facilities.

(I) Fund intermodal freight or passenger facilities.

(J) Fund transportation enhancement activities, including projects consistent with the commission’s Transportation for Livable Communities (TLC) Program and the Housing Incentive Program (HIP).

(K) Defray interest costs and other expenses associated with the issuance of revenue bonds or revenue anticipation notes.

(5) If not otherwise available, sufficient funding shall be included in the cost estimates and expenditure plan presented to the voters to operate and maintain each included project for the duration of the tax.

CHAPTER  162

An act to add and repeal Section 53601.7 of the Government Code, relating to local government.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]

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

SECTION 1. Section 53601.7 is added to the Government Code, to read:

53601.7. Notwithstanding the investment parameters of Sections 53601 and 53635, a local agency that is a county or a city and county may invest any portion of the funds that it deems wise or expedient, using the following criteria:

(a) No investment shall be made in any security, other than a security underlying a repurchase or reverse purchase agreement, that, at the time
of purchase, has a term remaining to maturity in excess of 397 days, and that would cause the dollar-weighted average maturity of the funds in the investment pool to exceed 90 days.

(b) All corporate and depository institution investments shall meet or exceed the following credit rating criteria at time of purchase:

(1) Short-term debt shall be rated at least “A-1” by Standard & Poor’s Corporation, “P-1” by Moody’s Investors Service, Inc., or “F-1” by Fitch Ratings. If the issuer of short-term debt has also issued long-term debt, this long-term debt rating shall be rated at least “A,” without regard to +/- or 1, 2, 3 modifiers, by Standard & Poor’s Corporation, Moody’s Investors Service, Inc., or Fitch Ratings.

(2) Long-term debt shall be rated at least “A,” without regard to +/- or 1, 2, 3 modifiers, by Standard & Poor’s Corporation, Moody’s Investors Service, Inc., or Fitch Ratings.

(c) No more than 5 percent of the total assets of the investments held by a local agency may be invested in the securities of any one issuer, except the obligations of the United States government, United States government agencies, and United States government-sponsored enterprises. No more than 10 percent may be invested in any one mutual fund.

(d) Where this section specifies a percentage limitation for a particular category of investment, that percentage is applicable only at the date of purchase. A later increase or decrease in a percentage resulting from a change in values or assets shall not constitute a violation of that restriction. If subsequent to purchase, securities are downgraded below the minimum acceptable rating level, the securities shall be reviewed for possible sale within a reasonable amount of time after the downgrade.

(e) Within the limitations set forth in this section, a local agency electing to invest its funds pursuant to this section may invest in the following securities:

(1) Direct obligations of the United States Treasury or any other obligation guaranteed as to principal and interest by the United States government.

(2) Bonds, notes, debentures, or any other obligations of, or securities issued by, any federal government agency, instrumentality, or government-sponsored enterprise.

(3) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or other entity of the state.

(4) Bonds, notes, warrants, or other indebtedness of the local agency, or any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled,
or operated by the local agency, or by a department, board, agency, or authority of the local agency.

(5) Bankers Acceptance, otherwise known as bills of exchange or time drafts drawn on and accepted by a commercial bank, primarily used to finance international trade. Purchases of bankers acceptances may not exceed 180 days to maturity.

(6) Short-term unsecured promissory notes issued by corporations for maturities of 270 days or less. Eligible commercial paper is further limited to the following:

(A) Issuing corporations that are organized and operating within the United States, having total assets in excess of five hundred million dollars ($500,000,000).

(B) Maturities for eligible commercial paper that may not exceed 270 days and may not represent more than 10 percent of the outstanding paper of an issuing corporation.

(7) A certificate representing a deposit of funds at a commercial bank for a specified period of time and for a specified return at maturity. Eligible certificates of deposit shall be issued by a nationally or state-chartered bank or a state or federal association, as defined in Section 5102 of the Financial Code, or by a state-licensed branch of a foreign bank. For purposes of this subdivision, certificates of deposits shall not come within Article 2 (commencing with Section 53630), except that the amount so invested shall be subject to the limitations of Section 53638. The legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money may not invest local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or any person with investment decisionmaking authority in the administrative office, manager’s office, budget office, auditor-controller’s office, or treasurer’s office of the local agency also serves on the board of directors, or any committee appointed by the board of directors, other credit committee or the supervisory committee of the state or federal credit union issuing the negotiable certificate of deposit.

(8) Repurchase agreements, reverse repurchase agreements, or securities lending agreements of any securities authorized by this section, if the agreements meet the requirements of this paragraph and the delivery requirements specified in Section 53601. Investments in repurchase agreements may be made, on any investment authorized by this section, when the term of the agreement does not exceed one year. The market value of the securities that underlay a repurchase agreement shall be valued at 102 percent or greater of the funds borrowed against those securities, and the value shall be adjusted no less than quarterly.
Because the market value of the underlying securities is subject to daily market fluctuations, the investments in repurchase agreements shall be in compliance with this section if the value of the underlying securities is brought back to 102 percent no later than the next business day. Reverse repurchase agreements may be utilized only when all of the following criteria are met:

(A) The security being sold on reverse repurchase agreement or securities lending agreement has been owned and fully paid for by the local agency for a minimum of 30 days prior to the sale.

(B) The total of all reverse repurchase agreements on investments owned by the local agency not purchased or committed to purchase does not exceed 20 percent of the market value of the portfolio.

(C) The agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement and the final maturity date of the same security.

(D) Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty by way of a reverse repurchase agreement or securities lending agreement, may not be used to purchase another security with a maturity longer than 92 days from the initial settlement date of the reverse repurchase agreement or securities lending agreement, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

(E) Investments in reverse repurchase agreements or similar investments in which the local agency sells securities prior to purchase with a simultaneous agreement to repurchase the security, shall only be made with prior approval of the governing body of the local agency and shall only be made with primary dealers of the Federal Reserve Bank of New York or with a nationally or state-chartered bank that has or has had a significant banking relationship with a local agency.

"Securities," for purposes of this paragraph, means securities of the same issuer, description, issue date, and maturity.

(9) All debt securities issued by a corporation or depository institution with a remaining maturity of not more than 397 days, including securities specified as "medium-term notes," as well as other debt instruments originally issued with maturities longer than 397 days, but which, at time of purchase, have a final maturity of 397 days or less. Eligible medium-term notes shall be issued by corporations organized and operating within the United States or by depository institutions
(10) (A) Shares of beneficial interest issued by diversified management companies that invest in the securities and obligations described in this subdivision and that comply with the investment restrictions of this section. However, notwithstanding these restrictions, a counterparty to a reverse repurchase agreement shall not be required to be a primary dealer of the Federal Reserve Bank of New York if the company’s board of directors finds that the counterparty presents a minimal risk of default. The value of the securities underlying a repurchase agreement may be 100 percent of the sales price if the securities are marked to market daily.

(B) Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the federal Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 and following).

(C) All shares of beneficial interest described in this paragraph shall have met either of the following criteria:

(i) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

(ii) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission and who has not less than five years’ experience investing in money market instruments and with assets under management in excess of five hundred million dollars ($500,000,000).

(11) Any mortgage passthrough security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable passthrough certificate, or consumer receivable-backed bond.

Securities eligible for investment under this paragraph shall be issued by an issuer having an “A” or higher rating from the issuer’s debt as provided by a nationally recognized rating service and rated in a rating category of “AA” or its equivalent or better by a national recognized rating.

(12) Contracts issued by insurance companies that provide the policyholder with the right to receive a fixed or variable rate of interest and the full return of principal at the maturity date.

(13) Any investments that would qualify under SEC Rule 2a-7 of the Investment Company Act of 1940 guidelines. These investments shall also meet the limitations detailed in this section.

(f) For purposes of this section, all of the following definitions shall apply:
(1) “Repurchase agreement” means a purchase of securities pursuant to an agreement by which the counterparty seller will repurchase the securities on or before a specified date and for a specified amount and the counterparty will deliver the underlying securities to the local agency by book entry, physical delivery, or by third-party custodial agreement.

(2) “Significant banking relationship” means any of the following activities of a bank:
   (A) Involvement in the creation, sale, purchase, or retirement of a local agency’s bands, warrants, notes or other evidence of indebtedness.
   (B) Financing of a local agency’s securities or funds as deposits.
   (C) Acceptance of a local agency’s securities or funds as deposits.

(3) “Reverse repurchase agreement” means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase the securities on or before a specified date and includes other comparable agreements.

(4) “Securities lending agreement” means an agreement with a local agency that agrees to transfer securities to a borrower who, in turn agrees to provide collateral to the local agency. During the term of the agreement, both the securities and the collateral are held by a third party. At the conclusion of the agreement, the securities are transferred back to the local agency in return for the collateral.

(5) “Local agency” means a county or city and county.

(g) For purposes of this section, the base value of the local agency’s pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool by all pool participants, excluding any amounts obtained through selling securities by way of reverse repurchase agreements, or other similar borrowing methods.

(h) For purposes of this section, the spread is the difference between the cost of funds obtained using the reverse repurchase agreement and the earnings obtained on the reinvestment of the funds.

(i) 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 163

An act to amend Sections 51421, 51422, and 51424 of the Education Code, relating to high school equivalency certificates.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]
The people of the State of California do enact as follows:

SECTION 1. Section 51421 of the Education Code is amended to read:

51421. (a) The superintendent may charge a one-time only fee, established by the State Board of Education, to be submitted by an examinee when registering for the test sufficient in an amount not greater than the amount required to pay the cost of administering this article and for the cost of providing all follow-up services related to the completion of the general educational development test. The amount of each fee may not exceed twenty dollars ($20) per person.

(b) The examinee shall be responsible for submitting to the Superintendent of Public Instruction all subsequent requests for duplicate copies of the California high school equivalency certificate and all requests to forward reports of the results of the applicant’s general educational development test to postsecondary educational institutions.

SEC. 2. Section 51422 of the Education Code is amended to read:

51422. Each scoring contractor shall provide the Superintendent of Public Instruction with a set of results for each examinee who has taken all or a portion of the general educational development test. Each scoring contractor shall forward to the superintendent the fee established pursuant to Section 51421 for each examinee who has taken the general educational development test.

SEC. 3. Section 51424 of the Education Code is amended to read:

51424. The Superintendent of Public Instruction shall keep a permanent record of California high school equivalency certificates issued pursuant to this article.

CHAPTER 164

An act to amend Section 31119 of the Public Resources Code, relating to coastal resources.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]

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

SECTION 1. Section 31119 of the Public Resources Code is amended to read:

31119. (a) (1) The conservancy may undertake educational projects and programs for pupils in kindergarten to grade 12, inclusive, relating to the preservation, protection, enhancement, and maintenance
of coastal resources, and may award grants to nonprofit organizations, educational institutions, and public agencies for those purposes, subject to the limitations contained in subdivision (b).

(2) An educational grant program established pursuant to paragraph (1) shall include all of the following:

(A) Funds provided for the educational program may be used for planning and implementation or development of marine science education programs.

(B) An educational program shall meet State Board of Education adopted content standards.

(C) The conservancy may consult with the Superintendent of Public Instruction prior to awarding grants pursuant to this section.

(D) A grant recipient shall use a portion of any funding provided for an educational program to promote maximum participation of pupils and schools, by providing scholarships or grants for this purpose.

(E) A nonprofit organization shall comply with all of the following as a condition of receiving a grant:

(i) Document increased pupil participation in its educational programs.

(ii) Provide outreach to low-income, underserved, and noncoastal areas.

(iii) Maintain any data necessary for evaluation, as determined by the conservancy.

(b) The conservancy is not required to take any action under subdivision (a), unless and until new funds from sources not currently available to the conservancy are made available by the Legislature for the purposes described in subdivision (a). No more than 10 percent of the funds provided for the educational programs under subdivision (a) may be used for the costs of the conservancy in administering the projects. No General Fund money may be used to fund a grant awarded pursuant to subdivision (a) to a local public educational agency or community college.

CHAPTER  165

An act to amend Section 32228.1 of the Education Code, relating to instruction.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]
SECTION 1. The Legislature hereby finds and declares that over the past decade school violence, specifically “school terrorism,” has increased dramatically. There has been reported 27 shooting incidents since 1992. In recent years, the frequency of these violent acts have increased 73 percent. Nineteen of these incidents have occurred in the last three and one-half years. California has not been immune from these attacks. There have been five reported school shootings since 1998. Many more shootings have escaped media attention.

In nearly all of these cases the perpetrator has either made statements threatening future violence or engaged in overt behavior commonly associated with criminal violence prior to the shooting. Those who were aware of this behavior often did not report their concerns to school officials or law enforcement.

The Legislature further finds and declares that there is a compelling need to encourage students, educators, and parents to report threats of violence and violent behavior of pupils and others that pose a danger to school safety.

SEC. 2. Section 32228.1 of the Education Code is amended to read:

32228.1. (a) This act shall be known as the School Safety and Violence Prevention Act. This statewide program shall be administered by the Superintendent of Public Instruction, who shall provide funds to school districts serving pupils in any of grades 8 to 12, inclusive, for the purpose of promoting school safety and reducing schoolsite violence. As a condition of receiving funds pursuant to this article, an eligible school district shall certify, on forms and in a manner required by the Superintendent of Public Instruction, that the funds will be used as described.

(b) From funds appropriated in the annual Budget Act or any other measure, funds shall be allocated to school districts on the basis of prior year enrollment, as reported by the California Basic Educational Data System, of pupils in any of grades 8 to 12, inclusive, for any one or more of the following purposes:

1. Providing schools with personnel, including, but not limited to, licensed or certificated school counselors, school social workers, school nurses, and school psychologists, who are trained in conflict resolution. Any law enforcement personnel hired pursuant to this article shall be trained and sworn peace officers.

2. Providing effective and accessible on-campus communication devices and other school safety infrastructure needs.

3. Establishing an in-service training program for school staff to learn to identify at-risk pupils, to communicate effectively with those pupils, and to refer those pupils to appropriate counseling.
(4) Providing and implementing instructional curricula and materials designed to equip pupils with skills and understanding necessary to prevent school violence by recognizing and reporting threats of school violence and school terrorism.

(5) Establishing cooperative arrangements with local law enforcement agencies for appropriate school-community relationships.

(6) Preventing and responding to acts of hate violence and bias-related incidents, including implementation of programs and instructional curricula consistent with the goals set forth in this section and guidelines developed pursuant to paragraph (1) of subdivision (b) of Section 233.

(7) For any other purpose that the school or school district determines that would materially contribute to meeting the goals and objectives of current law in providing for safe schools and preventing violence among pupils.

CHAPTER 166

An act to amend Section 53082 of the Education Code, relating to instruction.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]

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

SECTION 1. Section 53082 of the Education Code is amended to read:

53082. (a) (1) For purposes of this chapter, “local partnership” means a defined system designed to deliver the school-to-career programs funded pursuant to this chapter. A local partnership may include, but is not limited to, a collaborative effort between educators, employers, local government entities, and the public.

(2) For purposes of this chapter, “local partnership geographic area” means the geographic area that an established local partnership is designed to serve.

(b) To be eligible for a grant pursuant to this chapter, a local entity shall, in the grant application, submit a detailed plan demonstrating the following:

(1) All pupils shall be eligible and have access to the activities developed in the geographic region. “All pupils” means every pupil, including, but not limited to, pupils who are college bound, at high risk, disabled pupils, special education pupils, male and female pupils
pursuing nontraditional careers, gifted pupils, pupils with limited English proficiency, and those who are economically disadvantaged.


(3) The ability to build on and integrate other beneficial workforce development and educational programs currently operating in the state, including, but not limited to, tech prep programs as provided through the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998 (105 P.L. 332), Partnership Academies established pursuant to Article 5 (commencing with Section 54690) of Chapter 9 of Part 29, Regional Occupational Centers and programs established pursuant to Article 1 (commencing with Section 52300) of Chapter 9, Project WorkAbility conducted pursuant to Article 3 (commencing with Section 56470) of Chapter 4.7 of Part 30, youth apprenticeship programs, and adult education programs.

(4) The ability to provide school-based learning, work-based learning, and service learning at an appropriate level for that local partnership geographic area.

(5) A significant level of participation and contributions from business and organized labor, including, but not limited to, internal school-to-career coordinator salaries, pupil wages in paid work-based learning, supplies, and equipment necessary for relevant school-to-career activities.

(6) The ability to be as inclusive as possible and engage all interested, appropriate, and relevant parties in the activities of the local partnership. The local partnership shall demonstrate participation from representatives of local education agencies, representatives of local postsecondary educational institutions, representatives of local vocational education schools, local educators, parent organizations, employers, employer organizations, and organized labor. The Interagency Partnership for School-to-Career Programs may, as it deems necessary, require additional participation from other parties including, but not limited to, community-based organizations, national trade associations, industrial extension centers, rehabilitation agencies and organizations, proprietary institutions of higher education, local government agencies, parent organizations, teacher organizations, private industry councils, and federally recognized Native American tribes and Native American organizations.

(7) An instructional program advising pupils of an employee’s and employer’s rights and obligations in the workplace.
(8) Accountability measurements shall demonstrate increased academic performance, postsecondary enrollment, decreased dropout rates, transition to appropriate employment, apprenticeship, or any other job training school when applicable, and measurements of pupil, parent, and employer satisfaction.

CHAPTER 167

An act to amend Section 10133.1 of the Business and Professions Code, relating to real estate.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]

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

SECTION 1. Section 10133.1 of the Business and Professions Code is amended to read:

10133.1. (a) Subdivisions (d) and (e) of Section 10131, Section 10131.1, Article 5 (commencing with Section 10230), and Article 7 (commencing with Section 10240) of this code and Section 1695.13 of the Civil Code do not apply to any of the following:

(1) Any person or employee thereof doing business under any law of this state, any other state, or the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, pension trusts, credit unions, or insurance companies.

(2) Any nonprofit cooperative association organized under Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code, in loaning or advancing money in connection with any activity mentioned therein.

(3) Any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, livestock, poultry, or bee products on a cooperative nonprofit basis, in loaning or advancing money to the members thereof or in connection with any business of that type.

(4) Any corporation securing money or credit from any federal intermediate credit bank organized and existing pursuant to the provisions of an act of Congress entitled the “Agricultural Credits Act of 1923,” in loaning or advancing money or credit so secured.

(5) Any person licensed to practice law in this state, not actively and principally engaged in the business of negotiating loans secured by real property, when that person renders services in the course of his or her
practice as an attorney at law, and the disbursements of that person, whether paid by the borrower or other person, are not charges or costs and expenses regulated by or subject to the limitations of Article 7 (commencing with Section 10240), and the fees and disbursements are not shared, directly or indirectly, with the person negotiating the loan or the lender.

(6) Any person licensed as a finance lender when acting under the authority of that license.

(7) Any cemetery authority as defined by Section 7018 of the Health and Safety Code, that is authorized to do business in this state or its authorized agent.

(8) Any person authorized in writing by a savings institution to act as an agent of that institution, as authorized by Section 6520 of the Financial Code or comparable authority of the Office of Thrift Supervision of the United States Department of the Treasury by its regulations, when acting under the authority of that written authorization.

(9) Any person who is licensed as a securities broker or securities dealer under any law of this state, or of the United States, or any employee, officer, or agent of that person, if that person, employee, officer, or agent is acting within the scope of authority granted by that license in connection with a transaction involving the offer, sale, purchase, or exchange of a security representing an ownership interest in a pool of promissory notes secured directly or indirectly by liens on real property, which transaction is subject to any law of this state or the United States regulating the offer or sale of securities.

(10) Any person licensed as a residential mortgage lender or servicer when acting under the authority of that license.

(b) Persons described in paragraph (1), (2), or (3), as follows, are exempt from the provisions of subdivisions (d) and (e) of Section 10131 or Section 10131.1 with respect to the collection of payments or performance of services for lenders or on notes of owners in connection with loans secured directly or collaterally by liens on real property:

(1) The person makes collections on 10 or less of those loans, or in amounts of forty thousand dollars ($40,000) or less, in any calendar year.

(2) The person is a corporation licensed as an escrow agent under Division 6 (commencing with Section 17000) of the Financial Code and the payments are deposited and maintained in the escrow agent’s trust account.

(3) An employee of a real estate broker who is acting as the agent of a person described in paragraph (4) of subdivision (b) of Section 10232.4.
For purposes of this subdivision, performance of services does not include soliciting borrowers, lenders, or purchasers for, or negotiating, loans secured directly or collaterally by a lien on real property.

(c) (1) Subdivision (d) of Section 10131 does not apply to an employee of a real estate broker who, on behalf of the broker, assists the broker in meeting the broker's obligations to its customers in residential mortgage loan transactions, as defined in Section 50003 of the Financial Code, where the lender is an institutional lender, as defined in Section 50003 of the Financial Code, provided the employee does not participate in any negotiations occurring between the principals.

(2) A broker shall exercise reasonable supervision and control over the activities of nonlicensed employees acting under this subdivision, and shall comply with Section 10163 for each location where the nonlicensed persons are employed.

This section does not restrict the ability of the commissioner to discipline a broker or corporate broker licensee or its designated officer, or both the corporate broker licensee and its designated officer, for misconduct of a nonlicensed employee acting under this subdivision, or, pursuant to Section 10080, to adopt, amend, or repeal rules or regulations governing the employment or supervision of an employee who is a nonlicensed person as described in this subdivision.

CHAPTER 168

An act to amend Section 15975 of, and to repeal Sections 15973, 15975.1, 15976, and 15977 of, the Government Code, to amend Section 2056 of the Public Contract Code, and to repeal Section 161026 of the Public Utilities Code, relating to transportation.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]

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

SECTION 1. Section 15973 of the Government Code is repealed.
SEC. 2. Section 15975 of the Government Code is amended to read:

15975. The transportation planning agencies and the county transportation commissions shall prepare and adopt an action plan that describes in detail the steps required to accomplish the consolidation of social service transportation services. Funding for the action plan shall be provided from local transportation funds made available under Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code. The action plan shall substantiate that one
or more of the benefits indicated in Sections 15951 and 15952 are feasible for the services in a given geographic area. The action plan shall include, but not be limited to, the following:

(a) The designation of consolidated transportation service agencies within the geographic area of jurisdiction of the transportation planning agency or county transportation commission. The action plan may designate more than a single agency or multiple agencies as consolidated transportation service agencies, if improved coordination of all services is demonstrated within the geographic area. In Ventura County, the county transportation commission is the consolidated transportation service agency.

The action plan may also specify that the consolidation of some services and the coordination of other services is the most feasible approach, at the time the action plan is submitted, which will provide improved efficiency and effectiveness of those services.

(b) The identification of the social service recipients to be served, of funds available for use by the consolidated or coordinated services, and of an orderly strategy and schedule detailing the steps required to develop the financial program and management structure necessary to implement consolidated or coordinated services.

(c) Measures to coordinate the services provided under subdivision (a) with existing fixed route service provided by public and private transportation providers.

(d) Measures for the effective coordination of specialized transportation service from one provider service area to another.

(e) Measures to insure that the objectives of the action plan are consistent with the legislative intent declared in Section 15951.

SEC. 3. Section 15975.1 of the Government Code is repealed.

SEC. 4. Section 15976 of the Government Code is repealed.

SEC. 5. Section 15977 of the Government Code is repealed.

SEC. 6. Section 2056 of the Public Contract Code is amended to read:

2056. (a) The department shall establish and administer a computerized databank containing a list of certified minority, women, and disadvantaged business enterprises. On or before July 1, 1993, the data shall be made accessible to all awarding departments, local agencies, and the public for use in contracting for goods, construction, and services with those business enterprises.

(b) The databank shall include, but not be limited to, the following information:

(1) Name, address, and telephone number.

(2) Ethnicity.

(3) Gender.
(4) Name of the participating state or local agency that conducted a site visit, and date of site visit, if applicable.
(5) Type of ownership.
(6) Product or service categories.
(7) Geographical area.
(8) Name of the participating state or local agency that performed the certification.
(9) Any additional local requirements met by the enterprise, if applicable.
(10) A record of actions by a participating state or local agency resulting in certification denial or decertification.

c) Information from the databank shall be made available to local public agencies and the public by the date specified in subdivision (a).
(d) The database developed to implement this section shall enable the department to monitor changes to this information and to issue any reports as may be required.

SEC. 7. Section 161026 of the Public Utilities Code is repealed.

CHAPTER 169

An act to amend Sections 15621, 15692, 16953, 16959, 17050, and 17451 of the Corporations Code, and to amend Sections 17941 and 17948 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]

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

SECTION 1. Section 15621 of the Corporations Code is amended to read:

15621. (a) In order to form a limited partnership the general partners shall execute, acknowledge, and file a certificate of limited partnership and, either before or after the filing of a certificate, the partners shall have entered into a partnership agreement. The certificate shall be filed in the office of, and on a form prescribed by, the Secretary of State and shall set forth all of the following:

(1) The name of the limited partnership.
(2) The street address of the principal executive office.
(3) The names and addresses of the general partners.
(4) The name and address of the agent for service of process required to be maintained by Section 15614, unless a corporate agent is designated, in which case only the name of the agent shall be set forth.
(5) Any other matters the person filing the certificate determines to include.

(b) A limited partnership is formed at the time of the filing of the certificate of limited partnership in the office of the Secretary of State. There shall be no requirement that any partner have a preexisting relationship with any other partner in order to form a limited partnership.

(c) For all purposes, a copy of the certificate of limited partnership duly certified by the Secretary of State is conclusive evidence of the formation of a limited partnership and prima facie evidence of its existence.

(d) A limited partnership may record in the office of the county recorder of any county in this state a certified copy of the certificate of limited partnership, or any amendment thereto, which has been filed in the office of the Secretary of State. A foreign limited partnership may record in the office of the county recorder of any county in the state a certified copy of the application for registration, together with the certificate of registration, referred to in Section 15692, or any amendment thereto, which has been filed in the office of the Secretary of State. The recording shall create a conclusive presumption in favor of any bona fide purchaser or encumbrancer for value of the partnership real property located in the county in which the certified copy has been recorded, that the persons named as general partners therein are the general partners of the partnership named and that they are all of the general partners of the partnership, and the recording shall also create such other presumptions as provided in Section 15010.5.

(e) The Secretary of State may cancel the filing of certificates of limited partnership if a check or other remittance accepted in payment of the filing fee is not paid upon presentation. Upon receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall give a first written notice of the applicability of this section to the agent for service of process or to the person submitting the instrument. Thereafter, if the amount has not been paid by cashier’s check or equivalent, the Secretary of State shall give a second written notice of cancellation and the cancellation shall thereupon be effective. The second notice shall be given 20 days or more after the first notice and 90 days or less after the original filing.

(f) The Secretary of State shall include with instructional materials, provided in conjunction with the form for filing a certificate of limited partnership under subdivision (a), a notice that the filing of the certificate of limited partnership will obligate the limited partnership to pay an annual tax for that taxable year to the Franchise Tax Board pursuant to Section 17935 of the Revenue and Taxation Code. That notice shall be updated annually to specify the dollar amount of the annual tax.

SEC. 2. Section 15692 of the Corporations Code is amended to read:
15692. Before transacting intrastate business in this state, a foreign limited partnership shall register with the Secretary of State. In order to register, a foreign limited partnership shall submit to the Secretary of State an application for registration as a foreign limited partnership, signed and acknowledged by a general partner on a form prescribed by the Secretary of State and setting forth all of the following:

(a) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this state.

(b) The state or country and date of its formation and a statement that the foreign limited partnership is authorized to exercise its powers and privileges in such state or country of formation.

(c) The name and address of an agent for service of process on the foreign limited partnership meeting the qualifications specified in paragraph (1) of subdivision (d) of Section 15627.

(d) A statement that the Secretary of State is appointed the agent of the foreign limited partnership for service of process if the agent has resigned and has not been replaced or if the agent cannot be found or served with the exercise of reasonable diligence.

(e) The address of the principal executive office of the foreign limited partnership and of its principal office in this state, if any.

(f) The names and business or residence addresses of the general partners.

(g) The Secretary of State may cancel the application and certificate of registration of a foreign limited partnership if a check or other remittance accepted in payment of the filing fee is not paid upon presentation. Upon receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall give a first written notice of the applicability of this section to the agent for service of process or to the person submitting the instrument. Thereafter, if the amount has not been paid by cashier’s check or equivalent, the Secretary of State shall give a second written notice of cancellation and the cancellation shall thereupon be effective. The second notice shall be given 20 days or more after the first notice and 90 days or less after the original filing.

(h) The Secretary of State shall include with instructional materials, provided in conjunction with registering as a foreign limited partnership, a notice that registration under this section will obligate the limited partnership to pay an annual tax for that taxable year to the Franchise Tax Board pursuant to Section 17935 of the Revenue and Taxation Code. That notice shall be updated annually to specify the dollar amount of the annual tax.

SEC. 3. Section 16953 of the Corporations Code is amended to read:
16953. (a) To become a registered limited liability partnership, a partnership, other than a limited partnership, shall file with the Secretary of State a registration, executed by one or more partners authorized to execute a registration, stating all of the following:

(1) The name of the partnership.
(2) The address of its principal office.
(3) The name and address of the agent for service of process on the limited liability partnership in California.
(4) A brief statement of the business in which the partnership engages.
(5) Any other matters that the partnership determines to include.
(6) That the partnership is registering as a registered limited liability partnership.

(b) The registration shall be accompanied by a fee as set forth in subdivision (a) of Section 12189 of the Government Code.

(c) The Secretary of State shall register as a registered limited liability partnership any partnership that submits a completed registration with the required fee.

(d) The Secretary of State may cancel the filing of the registration if a check or other remittance accepted in payment of the filing fee is not paid upon presentation. Upon receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall give a first written notice of the applicability of this section to the agent for service of process or to the person submitting the instrument. Thereafter, if the amount has not been paid by cashier’s check or equivalent, the Secretary of State shall give a second written notice of cancellation and the cancellation shall thereupon be effective. The second notice shall be given 20 days or more after the first notice and 90 days or less after the date of the original filing.

(e) A partnership becomes a registered limited liability partnership at the time of the filing of the initial registration with the Secretary of State or at any later date or time specified in the registration and the payment of the fee required by subdivision (b). A partnership continues as a registered limited liability partnership until a notice that it is no longer a registered limited liability partnership has been filed pursuant to subdivision (b) of Section 16954 or, if applicable, until it has been dissolved and finally wound up. The status of a partnership as a registered limited liability partnership and the liability of a partner of the registered limited liability partnership shall not be adversely affected by errors or subsequent changes in the information stated in a registration under subdivision (a) or an amended registration or notice under Section 16954.

(f) The fact that a registration or amended registration pursuant to this section is on file with the Secretary of State is notice that the partnership
is a registered limited liability partnership and of those other facts contained therein that are required to be set forth in the registration or amended registration.

(g) The Secretary of State shall provide a form for a registration under subdivision (a), which shall include the form for confirming compliance with the optional security requirement pursuant to subdivision (c) of Section 16956. The Secretary of State shall include with instructional materials provided in conjunction with the form for a registration under subdivision (a) a notice that filing the registration will obligate the limited liability partnership to pay an annual tax for that taxable year to the Franchise Tax Board pursuant to Section 17948 of the Revenue and Taxation Code. That notice shall be updated annually to specify the dollar amount of the tax.

(h) A limited liability partnership providing professional limited liability partnership services in this state shall comply with all statutory and administrative registration or filing requirements of the state board, commission, or other agency that prescribes the rules and regulations governing the particular profession in which the partnership proposes to engage, pursuant to the applicable provisions of the Business and Professions Code relating to that profession. The state board, commission, or other agency shall not disclose, unless compelled by a subpoena or other order of a court of competent jurisdiction, any information it receives in the course of evaluating the compliance of a limited liability partnership with applicable statutory and administrative registration or filing requirements, provided that nothing in this section shall be construed to prevent a state board, commission, or other agency from disclosing the manner in which the limited liability partnership has complied with the requirements of Section 16956, or the compliance or noncompliance by the limited liability partnership with any other requirements of the state board, commission, or other agency.

SEC. 4. Section 16959 of the Corporations Code is amended to read:

16959. (a) (1) Before transacting intrastate business in this state, a foreign limited liability partnership shall comply with all statutory and administrative registration or filing requirements of the state board, commission, or agency that prescribes the rules and regulations governing a particular profession in which the partnership proposes to be engaged, pursuant to the applicable provisions of the Business and Professions Code relating to the profession or applicable rules adopted by the governing board. A foreign limited liability partnership that transacts intrastate business in this state shall within 30 days after the effective date of the act enacting this section or the date on which the foreign limited liability partnership first transacts intrastate business in this state, whichever is later, register with the Secretary of State by submitting to the Secretary of State an application for registration as a
foreign limited liability partnership, signed by a person with authority to do so under the laws of the jurisdiction of formation of the foreign limited liability partnership, stating the name of the partnership, the address of its principal office, the name and address of its agent for service of process in this state, a brief statement of the business in which the partnership engages, and any other matters that the partnership determines to include.

(2) Annexed to the application for registration shall be a certificate from an authorized public official of the foreign limited liability partnership’s jurisdiction of organization to the effect that the foreign limited liability partnership is in good standing in that jurisdiction, if the laws of that jurisdiction permit the issuance of those certificates, or, in the alternative, a statement by the foreign limited liability partnership that the laws of its jurisdiction of organization do not permit the issuance of those certificates.

(b) The registration shall be accompanied by a fee as set forth in subdivision (b) of Section 12189 of the Government Code.

(c) The Secretary of State shall register as a foreign limited liability partnership any partnership that submits a completed application for registration with the required fee.

(d) The Secretary of State may cancel the filing of the registration if a check or other remittance accepted in payment of the filing fee is not paid upon presentation. Upon receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall give a first written notice of the applicability of this section to the agent for service of process or to the person submitting the instrument. Thereafter, if the amount has not been paid by cashier’s check or equivalent, the Secretary of State shall give a second written notice of cancellation and the cancellation shall thereupon be effective. The second notice shall be given 20 days or more after the first notice and 90 days or less after the original filing.

(e) A partnership becomes registered as a foreign limited liability partnership at the time of the filing of the initial registration with the Secretary of State or at any later date or time specified in the registration and the payment of the fee required by subdivision (b). A partnership continues to be registered as a foreign limited liability partnership until a notice that it is no longer so registered as a limited liability partnership has been filed pursuant to Section 16960 or, if applicable, once it has been dissolved and finally wound up. The status of a partnership registered as a foreign limited liability partnership and the liability of a partner of that foreign limited liability partnership shall not be adversely affected by errors or subsequent changes in the information stated in an application for registration under subdivision (a) or an amended registration or notice under Section 16960.
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(f) The fact that a registration or amended registration pursuant to Section 16960 is on file with the Secretary of State is notice that the partnership is a foreign limited liability partnership and of those other facts contained therein that are required to be set forth in the registration or amended registration.

(g) The Secretary of State shall provide a form for a registration under subdivision (a), which shall include the form for confirming compliance with the optional security requirement pursuant to subdivision (c) of Section 16956. The Secretary of State shall include with instructional materials, provided in conjunction with the form for registration under subdivision (a), a notice that filing the registration will obligate the limited liability partnership to pay an annual tax for that taxable year to the Franchise Tax Board pursuant to Section 17948 of the Revenue and Taxation Code. That notice shall be updated annually to specify the dollar amount of this tax.

(h) A foreign limited liability partnership transacting intrastate business in this state shall not maintain any action, suit, or proceeding in any court of this state until it has registered in this state pursuant to this section.

(i) Any foreign limited liability partnership that transacts intrastate business in this state without registration is subject to a penalty of twenty dollars ($20) for each day that unauthorized intrastate business is transacted, up to a maximum of ten thousand dollars ($10,000).

(j) A partner of a foreign limited liability partnership is not liable for the debts or obligations of the foreign limited liability partnership solely by reason of its having transacted business in this state without registration.

(k) A foreign limited liability partnership, transacting business in this state without registration, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this state.

(l) “Transact intrastate business” as used in this section means to repeatedly and successively provide professional limited liability partnership services in this state, other than in interstate or foreign commerce.

(m) Without excluding other activities that may not be considered to be transacting intrastate business, a foreign limited liability partnership shall not be considered to be transacting intrastate business merely because its subsidiary or affiliate transacts intrastate business, or merely because of its status as any one or more of the following:

1. A shareholder of a domestic corporation.
(3) A limited partner of a foreign limited partnership transacting intrastate business.

(4) A limited partner of a domestic limited partnership.

(5) A member or manager of a foreign limited liability company transacting intrastate business.

(6) A member or manager of a domestic limited liability company.

(n) Without excluding other activities that may not be considered to be transacting intrastate business, a foreign limited liability partnership shall not be considered to be transacting intrastate business within the meaning of this subdivision solely by reason of carrying on in this state any one or more of the following activities:

(1) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes.

(2) Holding meetings of its partners or carrying on any other activities concerning its internal affairs.

(3) Maintaining bank accounts.

(4) Maintaining offices or agencies for the transfer, exchange, and registration of the foreign limited liability partnership’s securities or maintaining trustees or depositories with respect to those securities.

(5) Effecting sales through independent contractors.

(6) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where those orders require acceptance without this state before becoming binding contracts.

(7) Creating or acquiring evidences of debt or mortgages, liens, or security interest in real or personal property.

(8) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts.

(9) Conducting an isolated transaction that is completed within 180 days and not in the course of a number of repeated transactions of a like nature.

(o) A person shall not be deemed to be transacting intrastate business in this state merely because of its status as a partner of a registered limited liability partnership or a foreign limited liability company whether or not registered to transact intrastate business in this state.

(p) The Attorney General may bring an action to restrain a foreign limited liability partnership from transacting intrastate business in this state in violation of this chapter.

(q) Nothing in this section is intended to, or shall, augment, diminish, or otherwise alter existing provisions of law, statutes, or court rules relating to services by a California architect, California public accountant, or California attorney in another jurisdiction, or services by an out-of-state architect, out-of-state public accountant, or out-of-state attorney in California.
SEC. 5. Section 17050 of the Corporations Code is amended to read:

17050. (a) In order to form a limited liability company, one or more persons shall execute and file articles of organization with, and on a form prescribed by, the Secretary of State and, either before or after the filing of articles of organization, the members shall have entered into an operating agreement. The person or persons who execute and file the articles of organization may, but need not, be members of the limited liability company.

(b) A limited liability company shall have one or more members.

(c) The existence of a limited liability company begins upon the filing of the articles of organization. For all purposes, a copy of the articles of organization duly certified by the Secretary of State is conclusive evidence of the formation of a limited liability company and prima facie evidence of its existence.

(d) The Secretary of State shall include with instructional materials provided in conjunction with the form for filing articles of organization under subdivision (a) a notice that filing the registration will obligate the limited liability company to pay an annual tax for that taxable year to the Franchise Tax Board pursuant to Section 17941 of the Revenue and Taxation Code. That notice shall be updated annually to specify the dollar amount of the tax.

SEC. 6. Section 17451 of the Corporations Code is amended to read:

17451. (a) Before transacting intrastate business in this state, a foreign limited liability company shall register with the Secretary of State. In order to register, a foreign limited liability company shall submit to the Secretary of State an application for registration as a foreign limited liability company, signed by a person with authority to do so under the laws of the state of its organization, on a form prescribed by the Secretary of State and setting forth:

(1) The name of the foreign limited liability company and, if different, the name under which it proposes to transact business in this state.

(2) The state and date of its organization and a statement that the foreign limited liability company is authorized to exercise its powers and privileges in that state.

(3) The name and address of an agent for service of process on the foreign limited liability company meeting the qualifications specified in paragraph (1) of subdivision (d) of Section 17061, unless a corporate agent is designated, in which case only the name of the agent shall be set forth.

(4) A statement that the Secretary of State is appointed the agent of the foreign limited liability company for service of process if the agent has resigned and has not been replaced or if the agent cannot be found or served with the exercise of reasonable diligence.
(5) The address of the principal executive office of the foreign limited liability company and of its principal office in this state, if any.

(b) Annexed to the application for registration shall be a certificate from an authorized public official of the foreign limited liability company’s jurisdiction of organization to the effect that the foreign limited liability company is in good standing in that jurisdiction, if the laws of that jurisdiction permit the issuance of those certificates; or, in the alternative, a statement by the foreign limited liability company that the laws of its jurisdiction of organization do not permit the issuance of those certificates.

c) The Secretary of State may cancel the application and certificate of registration of a foreign limited liability company if a check or other remittance accepted in payment of the filing fee is not paid upon presentation. Upon receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall give a first written notice of the applicability of this section to the agent for service of process or to the person submitting the instrument. Thereafter, if the amount has not been paid by cashier’s check or equivalent, the Secretary of State shall give a second written notice of cancellation and the cancellation shall thereupon be effective. The second notice shall be given 20 days or more after the first notice and 90 days or less after the original filing.

d) The Secretary of State shall include with instructional materials, provided in conjunction with registration under subdivision (a), a notice that filing the registration will obligate the limited liability company to pay an annual tax to the Franchise Tax Board pursuant to Section 17941 of the Revenue and Taxation Code. That notice shall be updated annually to specify the dollar amount of the tax.

SEC. 7. Section 17941 of the Revenue and Taxation Code is amended to read:

17941. (a) For each taxable year beginning on or after January 1, 1997, every limited liability company doing business in this state (as defined in Section 23101) shall pay annually to this state a tax for the privilege of doing business in this state in an amount equal to the applicable amount specified in paragraph (1) of subdivision (d) of Section 23153 for the taxable year.

(b) (1) In addition to any limited liability company which is doing business in this state and is therefore subject to the tax imposed by subdivision (a), for each taxable year beginning on or after January 1, 1997, a limited liability company shall pay annually the tax prescribed in subdivision (a) if articles of organization have been accepted, or a certificate of registration has been issued, by the office of the Secretary of State. The tax shall be paid for each taxable year, or part thereof, until a certificate of cancellation of registration or of articles of organization
is filed on behalf of the limited liability company with the office of the Secretary of State.

(2) If a taxpayer files a return with the Franchise Tax Board that is designated as its final return, the Franchise Tax Board shall notify the taxpayer that the annual tax shall continue to be due annually until a certificate of cancellation is filed with the Secretary of State pursuant to Section 17356 or 17455 of the Corporations Code.

(c) The tax assessed under this section shall be due and payable on or before the 15th day of the fourth month of the taxable year.

(d) For purposes of this section, “limited liability company” means any organization that is formed by one or more persons under the law of this state, any other country, or any other state, as a “limited liability company” and that is not taxable as a corporation for California tax purposes.

SEC. 8. Section 17948 of the Revenue and Taxation Code is amended to read:

17948. (a) For each taxable year beginning on or after January 1, 1997, every limited liability partnership doing business in this state (as defined in Section 23101) and required to file a return under Section 18633 shall pay annually to the Franchise Tax Board a tax for the privilege of doing business in this state in an amount equal to the applicable amount specified in paragraph (1) of subdivision (d) of Section 23153 for the taxable year.

(b) In addition to any limited liability partnership that is doing business in this state and therefore is subject to the tax imposed by subdivision (a), for each taxable year beginning on or after January 1, 1997, every registered limited liability partnership that has registered with the Secretary of State pursuant to Section 16953 of the Corporations Code and every foreign limited liability partnership that has registered with the Secretary of State pursuant to Section 16959 of the Corporations Code shall pay annually the tax prescribed in subdivision (a). The tax shall be paid for each taxable year, or part thereof, until any of the following occurs:

(1) A notice of cessation is filed with the Secretary of State pursuant to subdivision (b) of Section 16954 or 16960 of the Corporations Code.

(2) A foreign limited liability partnership withdraws its registration pursuant to subdivision (a) of Section 16960 of the Corporations Code.

(3) The registered limited liability partnership or foreign limited liability partnership has been dissolved and finally wound up.

(c) The tax assessed under this section shall be due and payable on the date the return is required to be filed under Section 18633.

(d) If a taxpayer files a return with the Franchise Tax Board that is designated as its final return, the Franchise Tax Board shall notify the taxpayer that the annual tax shall continue to be due annually until a
certificate of cancellation is filed with the Secretary of State pursuant to Section 16954 or 16960 of the Corporations Code.

CHAPTER 170

An act to add Section 3312 to the Government Code, relating to public safety officers.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]

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

SECTION 1. The Legislature finds and declares both of the following:
(a) In the aftermath of the terrorist attacks on the World Trade Center in New York City and on the Pentagon in Washington, D.C., on September 11, 2001, police and other public safety officers wish to join with other Americans in expressing their grief over this horrific tragedy by wearing pins or displaying other items containing the American flag.
(b) The Legislature, by enacting this act, intends to prohibit punitive action against a public safety officer for wearing a pin or displaying any other item containing the American flag unless the officer has been given specified notice and warning that this action violates an existing rule, regulation, policy, or local agency agreement or contract.

SEC. 2. Section 3312 is added to the Government Code, to read:

3312. Notwithstanding any other provision of law, the employer of a public safety officer may not take any punitive action against an officer for wearing a pin or displaying any other item containing the American flag unless the employer gives the officer written notice that includes all of the following:
(a) A statement that the officer’s pin or other item violates an existing rule, regulation, policy, or local agency agreement or contract regarding the wearing of a pin, or the displaying of any other item, containing the American flag.
(b) A citation to the specific rule, regulation, policy, or local agency agreement or contract that the pin or other item violates.
(c) A statement that the officer may file an appeal against the employer challenging the alleged violation pursuant to applicable grievance or appeal procedures adopted by the department or public agency that otherwise comply with existing law.
An act to amend Section 4576.1 of the Public Resources Code, relating to forest resources.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]

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

SECTION 1. Section 4576.1 of the Public Resources Code is amended to read:

4576.1. During the period for which a timber operator license has been suspended, revoked, or denied pursuant to Section 4573 or 4576, the real person in interest, as defined in Section 4570, may not have any ownership, possessory, security, or other pecuniary interest in, or any responsibility for the conduct of, the timber operations of any person licensed pursuant to this article. This provision does not preclude ownership of publicly traded stock in any corporation.

CHAPTER 172


[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]

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

SECTION 1. Section 82030 of the Government Code is amended to read:

82030. (a) “Income” means, except as provided in subdivision (b), a payment received, including but not limited to any salary, wage, advance, dividend, interest, rent, proceeds from any sale, gift, including any gift of food or beverage, loan, forgiveness or payment of indebtedness received by the filer, reimbursement for expenses, per diem, or contribution to an insurance or pension program paid by any person other than an employer, and including any community property interest in the income of a spouse. Income also includes an outstanding loan. Income of an individual also includes a pro rata share of any income of any business entity or trust in which the individual or spouse owns, directly, indirectly or beneficially, a 10-percent interest or greater. “Income,” other than a gift, does not include income received from any
source outside the jurisdiction and not doing business within the jurisdiction, not planning to do business within the jurisdiction, or not having done business within the jurisdiction during the two years prior to the time any statement or other action is required under this title.

(b) “Income” also does not include:

(1) Campaign contributions required to be reported under Chapter 4 (commencing with Section 84100).

(2) Salary and reimbursement for expenses or per diem received from a state, local, or federal government agency and reimbursement for travel expenses and per diem received from a bona fide nonprofit entity exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(3) Any devise or inheritance.

(4) Interest, dividends, or premiums on a time or demand deposit in a financial institution, shares in a credit union or any insurance policy, payments received under any insurance policy, or any bond or other debt instrument issued by any government or government agency.

(5) Dividends, interest, or any other return on a security which is registered with the Securities and Exchange Commission of the United States government or a commodity future registered with the Commodity Futures Trading Commission of the United States government, except proceeds from the sale of these securities and commodities futures.

(6) Redemption of a mutual fund.

(7) Alimony or child support payments.

(8) Any loan or loans from a commercial lending institution which are made in the lender’s regular course of business on terms available to members of the public without regard to official status.

(9) Any loan from or payments received on a loan made to an individual’s spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, uncle, aunt, or first cousin, or the spouse of any such person, provided that a loan or loan payment received from any such person shall be considered income if he or she is acting as an agent or intermediary for any person not covered by this paragraph.

(10) Any indebtedness created as part of a retail installment or credit card transaction if made in the lender’s regular course of business on terms available to members of the public without regard to official status.

(11) Payments received under a defined benefit pension plan qualified under Internal Revenue Code Section 401(a).

(12) Proceeds from the sale of securities registered with the Securities and Exchange Commission of the United States government or from the sale of commodities futures registered with the Commodity Futures Trading Commission of the United States government if the filer sells
the securities or the commodities futures on a stock or commodities exchange and does not know or have reason to know the identity of the purchaser.

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CHAPTER 173

An act to amend Section 710 of the Corporations Code, relating to corporations.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]

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

SECTION 1. Section 710 of the Corporations Code is amended to read:

710. (a) This section applies to a corporation with outstanding shares held of record by 100 or more persons (determined as provided in Section 605) which files an amendment of articles or certificate of determination containing a “supermajority vote” provision on or after January 1, 1989; provided that this section shall not apply to a corporation which files an amendment of articles or certificate of determination on or after January 1, 1994, if, at the time of filing, the corporation has (1) outstanding shares of more than one class or series of stock; (2) no class of equity securities registered under Section 12(b) or 12(g) of the Securities Exchange Act of 1934; and (3) outstanding securities held of record by fewer than 300 persons determined as provided by Section 605.

(b) A “supermajority vote” is a requirement set forth in the articles or in a certificate of determination authorized under any provision of this division that specified corporate action or actions be approved by a larger proportion of the outstanding shares than a majority, or by a larger proportion of the outstanding shares of a class or series than a majority, but no supermajority vote which is subject to this section shall require a vote in excess of 66²/₃ percent of the outstanding shares or 66²/₃ percent of the outstanding shares of any class or series of those shares.

(c) An amendment of the articles or a certificate of determination that includes a supermajority vote requirement shall be approved by at least as large a proportion of the outstanding shares (Section 152) as is required pursuant to that amendment or certificate of determination for the approval of the specified corporate action or actions. The supermajority vote requirement shall cease to be effective two years after the filing of the most recent filing of the amendment or certificate of
determination to adopt or readopt the supermajority vote requirement. At any time within one year before the applicable expiration date, a supermajority vote requirement may be renewed, and at any time after the expiration date, a supermajority vote requirement may again be made effective for another two-year period, by readopting the provision and filing a certificate of amendment pursuant to, and subject to the limitations of, this subdivision. If the provision is not readopted in this manner, then the particular corporate action or actions previously subject to the supermajority vote shall thereafter require a vote of only a majority of either the outstanding shares or the shares of the specified class or series which had previously been subject to the supermajority vote provision, whichever the case may be.

(d) The amendments made to this section by the act amending this section in the 2001–02 Regular Session shall not affect the rights of minority shareholders existing under law.

CHAPTER 174

An act to add Section 53312.8 to the Government Code, relating to community facilities districts.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]

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

SECTION 1. Section 53312.8 is added to the Government Code, to read:

53312.8. (a) Territory that is dedicated or restricted to agricultural, open-space, or conservation uses may not be included within or annexed to a community facilities district that provides or would provide facilities or services related to sewers, nonagricultural water, or streets and roads, unless the landowner consents to the inclusion or annexation of that territory to the community facilities district.

(b) Notwithstanding any other provision of law, and except as provided in subdivision (c), if a landowner consents to the inclusion or annexation of territory in a community facilities district pursuant to subdivision (a), the landowner and any local agency may not terminate any easement or effect a final cancellation of any contract with respect to any portion of the land included within or annexed to the community facilities district prior to the release of land that is the subject of the proposed termination or cancellation from all liens that arise under the community facilities district for any sewers, nonagricultural water, or
streets and roads that did not benefit land uses allowed under the contract or easement.

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

(1) Land under a contract entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1) included in a community facilities district for which a tentative map may be filed pursuant to paragraph (3) of subdivision (d) of Section 66474.4 or for which a tentative cancellation has been approved.

(2) Land subject to a conservation easement entered into prior to January 1, 2003.

(3) Land included in a community facilities district prior to the imposition of an enforceable restriction listed in subdivision (d) or prior to January 1, 2003.

(4) Land subject to an enforceable restriction listed in subdivision (d) that expressly waives the requirement of subdivision (b).

(d) As used in this section, “territory that is dedicated or restricted to agricultural, open-space, or conservation uses” means territory that is subject to any of the following:

(1) An open-space easement entered into pursuant to Chapter 6.5 (commencing with Section 51050) of Part 1 of Division 1.

(2) An open-space easement entered into pursuant to the Open-Space Easement Act of 1974 (Chapter 6.6 (commencing with Section 51070) of Part 1 of Division 1).

(3) A contract entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1).

(4) A farmland security zone contract created pursuant to Article 7 (commencing with Section 51296) of Chapter 7 of Part 1 of Division 1), except as otherwise provided in Section 51296.4.

(5) A conservation easement entered into pursuant to Chapter 4 (commencing with Section 815) of Title 2 of Part 2 of Division 2 of the Civil Code.

(6) An agricultural conservation easement entered into pursuant to Chapter 4 (commencing with Section 10260) of Division 10.2 of the Public Resources Code.

(7) An agricultural conservation easement entered into pursuant to Section 51256.
An act to amend Sections 6254 and 54956.5 of the Government Code, relating to public agency emergencies.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]

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

SECTION 1. Section 6254 of the Government Code is amended to read:

6254. Except as provided in Sections 6254.7 and 6254.13, nothing in this chapter shall be construed to require disclosure of records that are any of the following:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Contained in or related to any of the following:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(4) Information received in confidence by any state agency referred to in paragraph (1).

(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, that are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any investigatory or security files compiled by
any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes, except that state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (c) of Section 13960, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, nothing in this division shall require the disclosure of that portion of those investigative files that reflect the analysis or conclusions of the investigating officer.

Notwithstanding any other provision of this subdivision, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name and occupation of every individual arrested by the agency, the individual’s physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section
220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code may be deleted at the request of the victim, or the victim’s parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, where the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code, except that the address of the victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph shall not be used directly or indirectly to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or
(k) Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(l) Correspondence of and to the Governor or employees of the Governor’s office or in the custody of or maintained by the Governor’s legal affairs secretary, provided that public records shall not be transferred to the custody of the Governor’s Legal Affairs Secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel, except those records in the public data base maintained by the Legislative Counsel that are described in Section 10248.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application that are subject to disclosure under this chapter.

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), and Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, that reveal a state agency’s deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under these chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) Records of state agencies related to activities governed by Article 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator’s deliberative processes, discussions,
communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice, or training to employees.

Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. In the event that a contract for inpatient services that is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

Notwithstanding any other provision of law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments until the time a contract or amendment is fully open to inspection by the public.

(r) Records of Native American graves, cemeteries, and sacred places maintained by the Native American Heritage Commission.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals that has been transmitted to the State Department of Health Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, or the records of a municipal hospital, formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Division 3 of Title 4 of this code, that relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 or 11512 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u) (1) Information contained in applications for licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department that indicates when or where the applicant is vulnerable to attack or that concerns the applicant’s medical or psychological history or that of members of his or her family.
(2) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in applications for licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(3) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(v) (1) Records of the Major Risk Medical Insurance Program related to activities governed by Part 6.3 (commencing with Section 12695) and Part 6.5 (commencing with Section 12700) of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Part 6.3 (commencing with Section 12695) or Part 6.5 (commencing with Section 12700) of Division 2 of the Insurance Code, on or after July 1, 1991, shall be open to inspection one year after they have been fully executed.

(B) In the event that a contract for health coverage that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after the amendment has been fully executed.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contract or amendments to a contract is open to inspection pursuant to paragraph (3).

(w) (1) Records of the Major Risk Medical Insurance Program related to activities governed by Chapter 14 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions,
opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Chapter 14 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, on or after January 1, 1993, shall be open to inspection one year after they have been fully executed.

(3) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contract or amendments to a contract is open to inspection pursuant to paragraph (2).

(x) Financial data contained in applications for registration, or registration renewal, as a service contractor filed with the Director of the Department of Consumer Affairs pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code, for the purpose of establishing the service contractor’s net worth, or financial data regarding the funded accounts held in escrow for service contracts held in force in this state by a service contractor.

(y) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code, on or after January 1, 1998, shall be open to inspection one year after they have been fully executed.

(B) In the event that a contract entered into pursuant to Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the amendment has been fully executed.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the
confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to paragraph (2) or (3).

(z) Records obtained pursuant to paragraph (2) of subdivision (c) of Section 2891.1 of the Public Utilities Code.

(aa) A document prepared by a local agency that assesses its vulnerability to terrorist attack or other criminal acts intended to disrupt the public agency’s operations and that is for distribution or consideration in a closed session.

Nothing in this section prevents any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

Nothing in this section prevents any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act.

SEC. 2. Section 54956.5 of the Government Code is amended to read:

54956.5. (a) For purposes of this section, “emergency situation” means both of the following:

(1) An emergency, which shall be defined as a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

(2) A dire emergency, which shall be defined as a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring a legislative body to provide one-hour notice before holding an emergency meeting under this section may endanger the public health, safety, or both, as determined by a majority of the members of the legislative body.

(b) (1) Subject to paragraph (2), in the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body may hold an emergency meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement of Section 54956 or both of the notice and posting requirements.

(2) Each local newspaper of general circulation and radio or television station that has requested notice of special meetings pursuant to Section 54956 shall be notified by the presiding officer of the legislative body, or designee thereof, one hour prior to the emergency meeting, or, in the case of a dire emergency, at or near the time that the presiding officer or designee notifies the members of the legislative body of the emergency meeting. This notice shall be given by telephone and all telephone numbers provided in the most recent request of a newspaper or station for notification of special meetings shall be
exhausted. In the event that telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the legislative body, or designee of the legislative body, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(c) During a meeting held pursuant to this section, the legislative body may meet in closed session pursuant to Section 54957 if agreed to by a two-thirds vote of the members of the legislative body present, or, if less than two-thirds of the members are present, by a unanimous vote of the members present.

(d) All special meeting requirements, as prescribed in Section 54956 shall be applicable to a meeting called pursuant to this section, with the exception of the 24-hour notice requirement.

(e) The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the legislative body, or designee of the legislative body, notified or attempted to notify, a copy of the rollcall vote, and any actions taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

CHAPTER 176

An act to amend Section 1281.85 of the Code of Civil Procedure, relating to arbitration.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]

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

SECTION 1. Section 1281.85 of the Code of Civil Procedure is amended to read:

1281.85. (a) Beginning July 1, 2002, a person serving as a neutral arbitrator pursuant to an arbitration agreement shall comply with the ethics standards for arbitrators adopted by the Judicial Council pursuant to this section. The Judicial Council shall adopt ethical standards for all neutral arbitrators effective July 1, 2002. These standards shall be consistent with the standards established for arbitrators in the judicial arbitration program and may expand but may not limit the disclosure and disqualification requirements established by this chapter. The standards shall address the disclosure of interests, relationships, or affiliations that may constitute conflicts of interest, including prior service as an arbitrator or other dispute resolution neutral entity, disqualifications,
acceptance of gifts, and establishment of future professional relationships.

(b) Subdivision (a) does not apply to an arbitration conducted pursuant to the terms of a public or private sector collective bargaining agreement.

CHAPTER 177

An act to amend Section 21104 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]

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

SECTION 1. Section 21104 of the Vehicle Code is amended to read:

21104. No ordinance or resolution proposed to be enacted under Section 21101 or subdivision (d) of Section 21100 is effective as to any highway not under the exclusive jurisdiction of the local authority enacting the same, except that an ordinance or resolution which is submitted to the Department of Transportation by a local legislative body in complete draft form for approval prior to the enactment thereof is effective as to any state highway or part thereof specified in the written approval of the department.

This section does not preclude the application of an ordinance or resolution adopted under Section 21101 or subdivision (d) of Section 21100 to streets maintained by a community services district organized pursuant to Division 3 (commencing with Section 61000) of Title 6 of the Government Code. An ordinance or resolution enacted by a local authority pursuant to subdivision (c) of Section 21101 may impose a fine or penalty of up to one hundred dollars ($100) for a violation of this code.

CHAPTER 178

An act to add Section 1353.5 to the Civil Code, relating to the United States flag.

[Approved by Governor July 11, 2002. Filed with Secretary of State July 12, 2002.]
The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature in enacting this act to provide for all of the following:
(a) That homeowners throughout the state shall be able to display a flag of the United States.
(b) That owners of a separate interest in a common interest development shall be specifically included within the group of owners and occupiers of land with a legal right to display a flag of the United States, as defined by subdivision (b) of Section 434.5 of the Government Code.
(c) That a homeowner who is unlawfully prohibited from flying a flag of the United States shall recover those costs and attorneys’ fees incurred in enforcing his or her right to do so.

SEC. 2. Section 1353.5 is added to the Civil Code, to read:
1353.5. (a) Except as required for the protection of the public health or safety, no declaration or other governing document shall limit or prohibit, or be construed to limit or prohibit, the display of the flag of the United States by an owner on or in the owner’s separate interest or within the owner’s exclusive use common area, as defined in Section 1351.
(b) For purposes of this section, “display of the flag of the United States” means a flag of the United States made of fabric, cloth, or paper displayed from a staff or pole or in a window, and does not mean a depiction or emblem of the flag of the United States made of lights, paint, roofing, siding, paving materials, flora, or balloons, or any other similar building, landscaping, or decorative component.
(c) In any action to enforce this section, the prevailing party shall be awarded reasonable attorneys’ fees and costs.

CHAPTER 179

An act to amend Sections 16601, 16602, and 16602.5 of the Business and Professions Code, relating to business contracts.

[Approved by Governor July 13, 2002. Filed with Secretary of State July 15, 2002.]

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

SECTION 1. Section 16601 of the Business and Professions Code is amended to read:
16601. Any person who sells the goodwill of a business, or any owner of a business entity selling or otherwise disposing of all of his or her ownership interest in the business entity, or any owner of a business entity that sells (a) all or substantially all of its operating assets together with the goodwill of the business entity, (b) all or substantially all of the operating assets of a division or a subsidiary of the business entity together with the goodwill of that division or subsidiary, or (c) all of the ownership interest of any subsidiary, may agree with the buyer to refrain from carrying on a similar business within a specified geographic area in which the business so sold, or that of the business entity, division, or subsidiary has been carried on, so long as the buyer, or any person deriving title to the goodwill or ownership interest from the buyer, carries on a like business therein.

For the purposes of this section, “business entity” means any partnership (including a limited partnership or a limited liability partnership), limited liability company, or corporation.

For the purposes of this section, “owner of a business entity” means any partner, in the case of a business entity that is a partnership (including a limited partnership or a limited liability partnership), or any member, in the case of a business entity that is a limited liability company, or any owner of capital stock, in the case of a business entity that is a corporation.

For the purposes of this section, “ownership interest” means a partnership interest, in the case of a business entity that is a partnership (including a limited partnership or a limited liability partnership), a membership interest, in the case of a business entity that is a limited liability company, or a capital stockholder, in the case of a business entity that is a corporation.

For the purposes of this section, “subsidiary” means any business entity over which the selling business entity has voting control or from which the selling business entity has a right to receive a majority share of distributions upon dissolution or other liquidation of the business entity (or has both voting control and a right to receive these distributions.)

SEC. 2. Section 16602 of the Business and Professions Code is amended to read:

16602. (a) Any partner may, upon or in anticipation of any of the circumstances described in subdivision (b), agree that he or she will not carry on a similar business within a specified geographic area where the partnership business has been transacted, so long as any other member of the partnership, or any person deriving title to the business or its goodwill from any such other member of the partnership, carries on a like business therein.

(b) Subdivision (a) applies to either of the following circumstances:
(1) A dissolution of the partnership.
(2) Dissociation of the partner from the partnership.

SEC. 3. Section 16602.5 of the Business and Professions Code is amended to read:

16602.5. Any member may, upon or in anticipation of a dissolution of a limited liability company, agree that he or she or it will not carry on a similar business within a specified geographic area where the limited liability company business has been transacted, so long as any other member of the limited liability company, or any person deriving title to the business or its goodwill from any such other member of the limited liability company, carries on a like business therein.

CHAPTER 180

An act to add Section 2662 to the Probate Code, and to amend Sections 361 and 726 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor July 13, 2002. Filed with Secretary of State July 15, 2002.]

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

SECTION 1. Section 2662 is added to the Probate Code, to read:

2662. Whenever the court grants a petition removing the guardian or conservator of a minor ward or conservatee or tendering the resignation of the guardian or conservator of a minor ward or conservatee, if the court does not immediately appoint a successor guardian or conservator, the court shall at the same time appoint a responsible adult to make educational decisions for the minor until a successor guardian or conservator is appointed. Whenever the court suspends or limits the powers of the guardian or conservator to make educational decisions for a minor ward or conservatee, the court shall at the same time appoint a responsible adult to make educational decisions for the minor ward or conservatee until the guardian or conservator is again authorized to make educational decisions for the minor ward or conservatee. An individual who would have a conflict of interest in representing the child may not be appointed to make educational decisions. For purposes of this section, “an individual who would have a conflict of interest,” means a person having any interests that might restrict or bias his or her ability to make educational decisions, including, but not limited to, those conflicts of interest prohibited by Section 1126 of the Government Code, and the receipt of compensation or attorneys’ fees for the provision of services pursuant to this section.
A foster parent may not be deemed to have a conflict of interest solely because he or she receives compensation for the provision of services pursuant to this section.

SEC. 2. Section 361 of the Welfare and Institutions Code is amended to read:

361. (a) In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all those limitations. Any limitation on the right of the parent or guardian to make educational decisions for the child shall be specifically addressed in the court order. The limitations may not exceed those necessary to protect the child. Whenever the court specifically limits the right of the parent or guardian to make educational decisions for the child, the court shall at the same time appoint a responsible adult to make educational decisions for the child until one of the following occurs:

(1) The minor reaches 18 years of age, unless the child chooses not to make educational decisions for himself or herself, or is deemed by the court to be incompetent.

(2) Another responsible adult is appointed to make educational decisions for the minor pursuant to this section.

(3) The right of the parent or guardian to make educational decisions for the minor is fully restored.

(4) A successor guardian or conservator is appointed.

(5) The child is placed into long-term foster care pursuant to paragraph (3) of subdivision (g) of Section 366.21, Section 366.22, or Section 366.26, at which time the foster parent shall have the right to represent the child in educational matters pursuant to Section 56055 of the Education Code.

An individual who would have a conflict of interest in representing the child may not be appointed to make educational decisions. For purposes of this section, “an individual who would have a conflict of interest,” means a person having any interests that might restrict or bias his or her ability to make educational decisions, including, but not limited to, those conflicts of interest prohibited by Section 1126 of the Government Code, and the receipt of compensation or attorneys’ fees for the provision of services pursuant to this section. A foster parent may not be deemed to have a conflict of interest solely because he or she receives compensation for the provision of services pursuant to this section.

(b) Subdivision (a) may not be construed to limit the ability of a parent to voluntarily relinquish his or her child to the State Department of Social Services or to a licensed county adoption agency at any time
while the child is a dependent child of the juvenile court, if the department or agency is willing to accept the relinquishment.

(c) A dependent child may not be taken from the physical custody of his or her parents or guardian or guardians with whom the child resides at the time the petition was initiated unless the juvenile court finds clear and convincing evidence of any of the following:

(1) There is a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor or would be if the minor were returned home, and there are no reasonable means by which the minor’s physical health can be protected without removing the minor from the minor’s parents’ or guardians’ physical custody. The fact that a minor has been adjudicated a dependent child of the court pursuant to subdivision (e) of Section 300 shall constitute prima facie evidence that the minor cannot be safely left in the custody of the parent or guardian with whom the minor resided at the time of injury. The court shall consider, as a reasonable means to protect the minor, the option of removing an offending parent or guardian from the home. The court shall also consider, as a reasonable means to protect the minor, allowing a nonoffending parent or guardian to retain custody as long as that parent or guardian presents a plan acceptable to the court demonstrating that he or she will be able to protect the child from future harm.

(2) The parent or guardian of the minor is unwilling to have physical custody of the minor, and the parent or guardian has been notified that if the minor remains out of their physical custody for the period specified in Section 366.25 or 366.26, the minor may be declared permanently free from their custody and control.

(3) The minor is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, and there are no reasonable means by which the minor’s emotional health may be protected without removing the minor from the physical custody of his or her parent or guardian.

(4) The minor or a sibling of the minor has been sexually abused, or is deemed to be at substantial risk of being sexually abused, by a parent, guardian, or member of his or her household, or other person known to his or her parent, and there are no reasonable means by which the minor can be protected from further sexual abuse or a substantial risk of sexual abuse without removing the minor from his or her parent or guardian, or the minor does not wish to return to his or her parent or guardian.

(5) The minor has been left without any provision for his or her support, or a parent who has been incarcerated or institutionalized cannot arrange for the care of the minor, or a relative or other adult custodian with whom the child has been left by the parent is unwilling or unable to provide care or support for the child and the whereabouts of the parent
is unknown and reasonable efforts to locate him or her have been unsuccessful.

(d) The court shall make a determination as to whether reasonable efforts were made to prevent or to eliminate the need for removal of the minor from his or her home or, if the minor is removed for one of the reasons stated in paragraph (5) of subdivision (c), whether it was reasonable under the circumstances not to make any of those efforts. The court shall state the facts on which the decision to remove the minor is based.

(e) The court shall make all of the findings required by subdivision (a) of Section 366 in either of the following circumstances:

(1) The minor has been taken from the custody of his or her parent or guardian and has been living in an out-of-home placement pursuant to Section 319.

(2) The minor has been living in a voluntary out-of-home placement pursuant to Section 16507.4.

SEC. 3. Section 726 of the Welfare and Institutions Code is amended to read:

726. (a) In all cases in which a minor is adjudged a ward or dependent child of the court, the court may limit the control to be exercised over the ward or dependent child by any parent or guardian and shall in its order, clearly and specifically set forth all those limitations, but no ward or dependent child shall be taken from the physical custody of a parent or guardian, unless upon the hearing the court finds one of the following facts:

(1) That the parent or guardian is incapable of providing or has failed or neglected to provide proper maintenance, training, and education for the minor.

(2) That the minor has been tried on probation while in custody and has failed to reform.

(3) That the welfare of the minor requires that custody be taken from the minor’s parent or guardian.

(b) Whenever the court specifically limits the right of the parent or guardian to make educational decisions for the minor, the court shall at the same time appoint a responsible adult to make educational decisions for the child until one of the following occurs:

(1) The minor reaches 18 years of age, unless the child chooses not to make educational decisions for himself or herself, or is deemed by the court to be incompetent.

(2) Another responsible adult is appointed to make educational decisions for the minor pursuant to this section.

(3) The right of the parent or guardian to make educational decisions for the minor is fully restored.

(4) A successor guardian or conservator is appointed.
(5) The child is placed into long-term foster care pursuant to paragraph (3) of subdivision (g) of Section 366.21, Section 366.22, or Section 366.26, at which time the foster parent shall have the right to represent the child in educational matters pursuant to Section 56055 of the Education Code.

An individual who would have a conflict of interest in representing the child, as specified under federal regulations, may not be appointed to make educational decisions. For purposes of this section, “an individual who would have a conflict of interest,” means a person having any interests that might restrict or bias his or her ability to make educational decisions, including, but not limited to, those conflicts of interest prohibited by Section 1126 of the Government Code, and the receipt of compensation or attorneys’ fees for the provision of services pursuant to this section. A foster parent may not be deemed to have a conflict of interest solely because he or she receives compensation for the provision of services pursuant to this section.

(c) In any case in which the minor is removed from the physical custody of his or her parent or guardian as the result of an order of wardship made pursuant to Section 602, the order shall specify that the minor may not be held in physical confinement for a period in excess of the maximum term of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought or continued the minor under the jurisdiction of the juvenile court.

As used in this section and in Section 731, “maximum term of imprisonment” means the longest of the three time periods set forth in paragraph (2) of subdivision (a) of Section 1170 of the Penal Code, but without the need to follow the provisions of subdivision (b) of Section 1170 of the Penal Code or to consider time for good behavior or participation pursuant to Sections 2930, 2931, and 2932 of the Penal Code, plus enhancements which must be proven if pled.

If the court elects to aggregate the period of physical confinement on multiple counts or multiple petitions, including previously sustained petitions adjudging the minor a ward within Section 602, the “maximum term of imprisonment” shall be the aggregate term of imprisonment specified in subdivision (a) of Section 1170.1 of the Penal Code, which includes any additional term imposed pursuant to Section 667, 667.5, 667.6, or 12022.1 of the Penal Code, and Section 11370.2 of the Health and Safety Code.

If the charged offense is a misdemeanor or a felony not included within the scope of Section 1170 of the Penal Code, the “maximum term of imprisonment” is the longest term of imprisonment prescribed by law.

“Physical confinement” means placement in a juvenile hall, ranch, camp, forestry camp or secure juvenile home pursuant to Section 730, or in any institution operated by the Youth Authority.
Nothing in this section shall be construed to limit the power of the court to retain jurisdiction over a minor and to make appropriate orders pursuant to Section 727 for the period permitted by Section 607.

CHAPTER 181

An act to add Section 122137 to the Health and Safety Code, relating to pet dealers.

[Approved by Governor July 13, 2002. Filed with Secretary of State July 15, 2002.]

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

SECTION 1. Section 122137 is added to the Health and Safety Code, to read:

122137. (a) (1) It is the intent of the Legislature and the purposes of this section to inform consumers who purchase dogs and cats from retail pet dealers about the benefits of spaying and neutering and the importance of establishing a relationship with a veterinarian, and to facilitate dog licensing by encouraging pet dealers to promote licensure compliance.

(2) The Legislature declares that pet dealers, when feasible, should offer incentives to purchasers to encourage the use of spaying and neutering services, and that local animal control agencies should investigate selling licenses through pet shops, or making licensure applications available in pet shops, since these businesses already serve a large number of pet owners through the sale of pet supplies.

(b) Every pet dealer shall deliver to the purchaser of each dog or cat at the time of sale, written material, in a form determined by the pet dealer, containing information on the benefits of spaying and neutering. The written material shall include recommendations on establishing a relationship with a veterinarian, information on early-age spaying and neutering, the health benefits associated with spaying and neutering pets, the importance of minimizing the risk of homeless or unwanted animals, and the need to comply with applicable license laws.

(c) The delivering of any model materials prepared by the Pet Industry Joint Advisory Council, the California Animal Control Directors Association, the State Humane Association of California, and the California Veterinary Medical Association shall satisfy the requirements of subdivision (a).
An act to amend Section 89030.1 of the Education Code, relating to education.

[Approved by Governor July 13, 2002. Filed with Secretary of State July 15, 2002.]

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

SECTION 1. Section 89030.1 of the Education Code is amended to read:

89030.1. The trustees shall adopt, amend, or repeal regulations pursuant to this section instead of pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. As used in this section, "regulation" means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by the university to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure, except one that relates only to the internal management of the university. "Regulation" does not mean or include any form prescribed by the university or any instructions relating to the use of the form, nor does it mean or include a building standard as defined in Section 18909 of the Health and Safety Code.

(a) The trustees' office of general counsel shall review the proposed regulations for matters such as necessity, authority, clarity, consistency, reference, and nonduplication, and recommend any proposed action to the trustees. For purposes of this section, "necessity," "authority," "clarity," "consistency," "reference," and "nonduplication" shall have the same meaning as defined by Section 11349 of the Government Code.

(b) Notice of the proposed regulations shall be sent at least 45 days prior to the public hearing to those persons who have requested notices of the meetings of the trustees and shall be available to the public in electronic format. The notice shall include the right of the public to comment orally or in writing on the proposed action either prior to or during the public hearing.

(c) At the hearing, the public shall be provided the opportunity to comment on the proposed action.

(d) The trustees shall maintain a rulemaking file containing the public notice, public comments, and minutes of the public hearing, including the action taken by the trustees.

(1) The rulemaking file shall contain a summary of each objection or recommendation made with an explanation of how the proposed action
was changed to accommodate each objection or recommendation, or the reason or reasons for making no change.

(2) The proposed regulations shall be accompanied by an estimate, prepared in accordance with instructions adopted by the Department of Finance, of the effect of the proposed regulations with regard to the costs or savings to any state agency, the cost of any state-mandated local program as governed by Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, any other costs or savings of local agencies, and the costs or savings in federal funding provided to state agencies.

(e) The trustees shall transmit the regulations as finally adopted to the Secretary of State for filing. Each regulation shall be effective upon filing with the Secretary of State, and shall be published in the California Code of Regulations.

(f) On or before January 15 of each year, the trustees shall report to the Governor, the Senate Education Committee, and the Assembly Higher Education Committee as to all regulatory actions taken by the trustees during the previous calendar year. The report shall include the statement of reasons for each regulatory action taken, indicate whether any concerns were raised regarding the proposed action, and the steps taken by the trustees to alleviate those concerns.

(g) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

CHAPTER  183

An act to add Section 7910 to the Public Utilities Code, relating to telephone corporations.

[Approved by Governor July 13, 2002. Filed with Secretary of State July 15, 2002.]

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

SECTION 1. Section 7910 is added to the Public Utilities Code, to read:

7910. (a) Telephone corporations shall perform background checks of applicants for employment, according to current business practices.

(b) A background check equivalent to that performed by the contracting telephone corporation shall also be conducted on all of the following:
(1) Persons hired by a telephone corporation under a personal services contract.
(2) Independent contractors and their employees.
(3) Vendors and their employees.

(c) Independent contractors and vendors shall certify that they have obtained the background checks required pursuant to subdivision (b), and shall make the background checks available to the telephone corporation upon request.

(d) Except as otherwise provided by contract, the telephone corporation shall not be responsible for administering the background checks and shall not assume the cost of the background checks of individuals who are not applicants for employment of the telephone corporation.

(e) (1) Subdivision (a) only applies to applicants for employment for positions that would allow the applicant to have direct contact with or access to the telephone network, the telephone corporation’s central office, or customer premises, and would require the applicant to perform activities that involve the installation, service, or repair of the telephone network or telephone equipment.

(2) Subdivision (b) only applies to persons that have direct contact with or access to the telephone network, the telephone corporation’s central office, or customer premises, and perform activities that involve the installation, service, or repair of the telephone network or telephone equipment.

(f) This section does not apply to temporary workers performing emergency functions to restore the network of a telephone corporation to its normal state in the event of a natural disaster or an emergency that threatens or results in the loss of service.

(g) The provisions of this section apply only to applicants for employment who apply for employment on and after January 1, 2003, and to contracts entered into on or after January 1, 2003.
40254. (a) If a vehicle is found, by automated devices, by visual observation, or otherwise, to have evaded tolls on any toll road or toll bridge, and subdivision (d) of Section 40250 does not apply, an issuing agency or a processing agency, as the case may be, shall, within 21 days of the violation, forward to the registered owner a notice of toll evasion violation setting forth the violation, including reference to the section violated, the approximate time thereof, and the location where the violation occurred. If accurate information concerning the identity and address of the registered owner is not available to the processing agency within 21 days of the violation, the processing agency shall have an additional 45 calendar days to obtain such information and forward the notice of toll evasion violation. Where the registered owner is a repeat violator, the processing agency shall forward the notice of toll evasion violation within 90 calendar days of the violation. “Repeat violator” means any registered owner for whom more than five violations have been issued pursuant to this section in any calendar month within the preceding 12-month period. The notice of toll evasion violation shall also set forth the following:

(1) The vehicle license plate number.
(2) If practicable, the registration expiration date and the make of the vehicle.
(3) A clear and concise explanation of the procedures for contesting the violation and appealing an adverse decision pursuant to Sections 40255 and 40256.

(b) Once the authorized person has notified the processing agency of a toll evasion violation, the processing agency shall prepare and forward the notice of violation to the registered owner of the vehicle cited for the violation. Any person, including the authorized person and any member of the person’s department or agency, or any peace officer who, with intent to prejudice, damage, or defraud, is found guilty of altering, concealing, modifying, nullifying, or destroying, or causing to be altered, concealed, modified, nullified, or destroyed, the face of the original or any copy of a notice that was retained by the authorized person before it is filed with the processing agency or with a person authorized to receive the deposit of the toll evasion violation is guilty of a misdemeanor.

(c) If, after a copy of the notice of toll evasion violation has been sent to the registered owner, the issuing person determines that, due to a failure of proof of apparent violation, the notice of toll evasion violation should be dismissed, the issuing agency may recommend, in writing, that the charges be dismissed. The recommendation shall cite the reasons for the recommendation and shall be filed with the processing agency.
(d) If the processing agency makes a finding that there are grounds for dismissal, the notice of toll evasion violation shall be canceled pursuant to Section 40255.

(e) Under no circumstances shall a personal relationship with any law enforcement officer, public official, law enforcement agency, processing agency or toll operating agency or entity be grounds for dismissal of the violation.

The processing agency shall use its best efforts to obtain accurate information concerning the identity and address of the registered owner for the purpose of forwarding a notice of toll evasion violation pursuant to subdivision (a).

CHAPTER 185

An act to amend Section 830.1 of the Penal Code, relating to peace officers.

[Approved by Governor July 13, 2002. Filed with Secretary of State July 15, 2002.]

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

SECTION 1. Section 830.1 of the Penal Code is amended to read:

830.1. (a) Any sheriff, undersheriff, or deputy sheriff, employed in that capacity, of a county, any chief of police of a city or chief, director, or chief executive officer of a consolidated municipal public safety agency which performs police functions, any police officer, employed in that capacity and appointed by the chief of police or chief, director, or chief executive of a public safety agency, of a city, any chief of police, or police officer of a district, including police officers of the San Diego Unified Port District Harbor Police, authorized by statute to maintain a police department, any marshal or deputy marshal of a superior court or county court, any port warden or special officer of the Harbor Department of the City of Los Angeles, or any inspector or investigator employed in that capacity in the office of a district attorney, is a peace officer. The authority of these peace officers extends to any place in the state, as follows:

(1) As to any public offense committed or which there is probable cause to believe has been committed within the political subdivision which employs the peace officer or in which the peace officer serves.

(2) Where the peace officer has the prior consent of the chief of police or chief, director, or chief executive officer of a consolidated municipal public safety agency, or person authorized by him or her to give consent,
if the place is within a city or of the sheriff, or person authorized by him
or her to give consent, if the place is within a county.

(3) As to any public offense committed or which there is probable
cause to believe has been committed in the peace officer’s presence, and
with respect to which there is immediate danger to person or property,
or of the escape of the perpetrator of the offense.

(b) Special agents and Attorney General investigators of the
Department of Justice are peace officers, and those assistant chiefs,
deputy chiefs, chiefs, deputy directors, and division directors designated
as peace officers by the Attorney General are peace officers. The
authority of these peace officers extends to any place in the state where
a public offense has been committed or where there is probable cause to
believe one has been committed.

(c) Any deputy sheriff of the County of Los Angeles, and any deputy
sheriff of the Counties of Kern, Humboldt, Imperial, Mendocino,
Plumas, Riverside, San Diego, Santa Barbara, Siskiyou, Sonoma,
Sutter, and Tehama who is employed to perform duties exclusively or
initially relating to custodial assignments with responsibilities for
maintaining the operations of county custodial facilities, including the
custody, care, supervision, security, movement, and transportation of
inmates, is a peace officer whose authority extends to any place in the
state only while engaged in the performance of the duties of his or her
respective employment and for the purpose of carrying out the primary
function of employment relating to his or her custodial assignments, or
when performing other law enforcement duties directed by his or her
employing agency during a local state of emergency.

SEC. 2. Section 830.1 of the Penal Code is amended to read:

830.1. (a) Any sheriff, undersheriff, or deputy sheriff, employed in
that capacity, of a county, any chief of police of a city or chief, director,
or chief executive officer of a consolidated municipal public safety
agency that performs police functions, any police officer, employed in
that capacity and appointed by the chief of police or chief, director, or
chief executive of a public safety agency, of a city, any chief of police,
or police officer of a district, including police officers of the San Diego
Unified Port District Harbor Police, authorized by statute to maintain a
police department, any marshal or deputy marshal of a superior or county
court, any port warden or special officer of the Harbor Department of the
City of Los Angeles, or any inspector or investigator employed in that
capacity in the office of a district attorney, is a peace officer. The
authority of these peace officers extends to any place in the state, as
follows:

(1) As to any public offense committed or which there is probable
cause to believe has been committed within the political subdivision that
employs the peace officer or in which the peace officer serves.
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(2) Where the peace officer has the prior consent of the chief of police or chief, director, or chief executive officer of a consolidated municipal public safety agency, or person authorized by him or her to give consent, if the place is within a city or of the sheriff, or person authorized by him or her to give consent, if the place is within a county.

(3) As to any public offense committed or which there is probable cause to believe has been committed in the peace officer’s presence, and with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of the offense.

(b) The Attorney General and special agents and investigators of the Department of Justice are peace officers, and those assistant chiefs, deputy chiefs, chiefs, deputy directors, and division directors designated as peace officers by the Attorney General are peace officers. The authority of these peace officers extends to any place in the state where a public offense has been committed or where there is probable cause to believe one has been committed.

(c) Any deputy sheriff of the County of Los Angeles, and any deputy sheriff of the Counties of Kern, Humboldt, Imperial, Mendocino, Plumas, Riverside, San Diego, Santa Barbara, Siskiyou, Sonoma, Sutter, and Tehama who is employed to perform duties exclusively or initially relating to custodial assignments with responsibilities for maintaining the operations of county custodial facilities, including the custody, care, supervision, security, movement, and transportation of inmates, is a peace officer whose authority extends to any place in the state only while engaged in the performance of the duties of his or her respective employment and for the purpose of carrying out the primary function of employment relating to his or her custodial assignments, or when performing other law enforcement duties directed by his or her employing agency during a local state of emergency.

SEC. 3. Section 2 of this bill incorporates amendments to Section 830.1 of the Penal Code proposed by both this bill and SB 183. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2003, (2) each bill amends Section 830.1 of the Penal Code, and (3) this bill is enacted after SB 183, in which case Section 1 of this bill shall not become operative.

CHAPTER 186

An act to add Section 22353 to the Vehicle Code, relating to speed limits.

[Approved by Governor July 13, 2002. Filed with Secretary of State July 15, 2002.]
The people of the State of California do enact as follows:

SECTION 1. Section 22353 is added to the Vehicle Code, to read:
22353. When conducting an engineering and traffic survey, the City of Norco, in addition to the factors set forth in Section 627, may also consider equestrian safety.

SEC. 2. The Legislature finds and declares that, because of the unique circumstances applicable only to the City of Norco and the equestrian trails there, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution. Therefore, this special statute is necessary.

CHAPTER 187

An act to amend Section 11167.5 of, and to add Section 13732 to, the Penal Code, relating to domestic violence.

[Approved by Governor July 13, 2002. Filed with Secretary of State July 15, 2002.]

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

SECTION 1. The Legislature finds and declares as follows:
(a) Public agencies have a responsibility to provide services and support to children who are at risk of abuse and neglect.
(b) Children who reside in homes where there is domestic violence face a heightened risk of abuse and neglect.
(c) Serious abuse and neglect can be prevented with early intervention and the provision of supportive services to families that face a risk of domestic violence.
(d) More costly and traumatic outcomes such as foster care placement and family separation can be prevented with early detection and cross-referencing among agencies interacting with families that face a risk of domestic violence.

SEC. 2. Section 11167.5 of the Penal Code is amended to read:
11167.5. (a) The reports required by Sections 11166 and 11166.2 shall be confidential and may be disclosed only as provided in subdivision (b). Any violation of the confidentiality provided by this article is a misdemeanor punishable by imprisonment in a county jail not to exceed six months, by a fine of five hundred dollars ($500), or by both that imprisonment and fine.
(b) Reports of suspected child abuse or neglect and information contained therein may be disclosed only to the following:

1. Persons or agencies to whom disclosure of the identity of the reporting party is permitted under Section 11167.
2. Persons or agencies to whom disclosure of information is permitted under subdivision (b) of Section 11170.
3. Persons or agencies with whom investigations of child abuse or neglect are coordinated under the regulations promulgated under Section 11174.
4. Multidisciplinary personnel teams as defined in subdivision (d) of Section 18951 of the Welfare and Institutions Code.
5. Persons or agencies responsible for the licensing of facilities which care for children, as specified in Section 11165.7.
6. The State Department of Social Services or any county licensing agency which has contracted with the state, as specified in paragraph (3) of subdivision (b) of Section 11170, when an individual has applied for a community care license or child day care license, or for employment in an out-of-home care facility, or when a complaint alleges child abuse or neglect by an operator or employee of an out-of-home care facility.
7. Hospital scan teams. As used in this paragraph, “hospital scan team” means a team of three or more persons established by a hospital, or two or more hospitals in the same county, consisting of health care professionals and representatives of law enforcement and child protective services, the members of which are engaged in the identification of child abuse or neglect. The disclosure authorized by this section includes disclosure among all hospital scan teams.
8. Coroners and medical examiners when conducting a postmortem examination of a child.
9. The Board of Prison Terms, who may subpoena an employee of a county welfare department who can provide relevant evidence and reports that both (A) are not unfounded, pursuant to Section 11165.12, and (B) concern only the current incidents upon which parole revocation proceedings are pending against a parolee charged with child abuse or neglect. The reports and information shall be confidential pursuant to subdivision (d) of Section 11167.
10. Personnel from an agency responsible for making a placement of a child pursuant to Section 361.3 of, and Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of, the Welfare and Institutions Code.
11. Persons who have been identified by the Department of Justice as listed in the Child Abuse Central Index pursuant to subdivision (c) of Section 11170. Nothing in this paragraph shall preclude a submitting agency prior to disclosure from redacting the name, address, and
telephone number of a witness, person who reports under this article, or victim in order to maintain confidentiality as required by law.

(12) Out-of-state law enforcement agencies conducting an investigation of child abuse or neglect only when an agency makes the request for reports of suspected child abuse or neglect in writing and on official letterhead, identifying the suspected abuser or victim by name. The request shall be signed by the department supervisor of the requesting law enforcement agency. The written request shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports is to be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the criminal penalties for unlawful disclosure provided by the requesting state or the applicable interstate compact provision. In the absence of both (A) a specific out-of-state statute or interstate compact provision that requires that the information contained within these reports be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and (B) criminal penalties equivalent to the penalties in California for unlawful disclosure, access shall be denied.

(13) Persons who have verified with the Department of Justice that they are listed in the Child Abuse Central Index as provided by subdivision (e) of Section 11170. Disclosure under this section shall be subject to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). Nothing in this section prohibits a submitting agency prior to disclosure from redacting the name, address, and telephone number of a witness, person who reports under this article, or victim to maintain confidentiality as required by law.

(14) Each chairperson of a county child death review team, or his or her designee, to whom disclosure of information is permitted under this article, relating to the death of one or more children and any prior child abuse or neglect investigation reports maintained involving the same victim, siblings, or suspects. Local child death review teams may share any relevant information regarding case reviews involving child death with other child death review teams.

(c) Authorized persons within county health departments shall be permitted to receive copies of any reports made by health practitioners, as defined in paragraphs (21) to (28), inclusive, of subdivision (a) of Section 11165.7, and pursuant to Section 11165.13, and copies of assessments completed pursuant to Sections 123600 and 123605 of the Health and Safety Code, to the extent permitted by federal law. Any information received pursuant to this subdivision is protected by subdivision (e).
(d) Nothing in this section requires the Department of Justice to disclose information contained in records maintained under Section 11169 or under the regulations promulgated pursuant to Section 11174, except as otherwise provided in this article.

(e) This section shall not be interpreted to allow disclosure of any reports or records relevant to the reports of child abuse or neglect if the disclosure would be prohibited by any other provisions of state or federal law applicable to the reports or records relevant to the reports of child abuse or neglect.

SEC. 3. Section 13732 is added to the Penal Code, to read:

13732. (a) The Legislature finds and declares that a substantial body of research demonstrates a strong connection between domestic violence and child abuse. However, despite this connection, child abuse and domestic violence services and agencies often fail to coordinate appropriately at the local level. It is the intent of the Legislature in enacting this section to improve preventative and supportive services to families experiencing violence in order to prevent further abuse of children and the victims of domestic violence. It is the further intent of this section that child protective services agencies develop a protocol which clearly sets forth the criteria for a child protective services response to a domestic violence related incident in a home in which a child resides.

(b) Commencing January 1, 2003, child protective services agencies, law enforcement, prosecution, child abuse and domestic violence experts, and community-based organizations serving abused children and victims of domestic violence shall develop, in collaboration with one another, protocols as to how law enforcement and child welfare agencies will cooperate in their response to incidents of domestic violence in homes in which a child resides. The requirements of this section shall not apply to counties where protocols consistent with this section already have been developed.

SEC. 4. It is the intent of the Legislature that this act provide for consistent coordination of current activities among agencies responsible for domestic violence and child abuse throughout the state, thereby reducing duplication, overlap, and local costs as well as providing improved protection for families experiencing violence.

SEC. 5. Pursuant to Section 17579 of the Government Code, the Legislature finds that there is no mandate contained in this act that will result in costs incurred by a local agency or school district for a new program or higher level of service which require reimbursement pursuant to Section 6 of Article XIII B of the California Constitution and
An act to amend Sections 51243.5 and 56754 of, and to add Section 51243.6 to, the Government Code, relating to agricultural preserves.

[Approved by Governor July 15, 2002. Filed with Secretary of State July 15, 2002.]

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

SECTION 1. Section 51243.5 of the Government Code is amended to read:

51243.5. (a) This section shall apply only to land that was within one mile of a city boundary when a contract was executed pursuant to this article and for which the contract was executed prior to January 1, 1991.

(b) For any proposal that would result in the annexation to a city of any land that is subject to a contract under this chapter, the local agency formation commission shall determine whether the city may exercise its option to not succeed to the rights, duties, and powers of the county under the contract.

(c) In making the determination required by subdivision (b), pursuant to Section 51206, the local agency formation commission may request, and the Department of Conservation shall provide, advice and assistance in interpreting the requirements of this section. If the department has concerns about an action proposed to be taken by a local agency formation commission pursuant to this section or Section 51243.6, the department shall advise the commission of its concerns, whether or not the commission has requested it to do so. The commission shall address the department’s concerns in any hearing to consider the proposed annexation or a city’s determination whether to exercise its option not to succeed to a contract, and shall specifically find that substantial evidence exists to show that the city has the present option under this section to decline to succeed to the contract.

(d) A city may exercise its option to not succeed to the rights, duties, and powers of the county under the contract if both of the following had occurred prior to December 8, 1971:

(1) The land being annexed was within one mile of the city’s boundary when the contract was executed.
(2) The city had filed with the county board of supervisors a resolution protesting the execution of the contract.

(e) A city may exercise its option to not succeed to the rights, duties, and powers of the county under the contract if each of the following had occurred prior to January 1, 1991:

(1) The land being annexed was within one mile of the city’s boundary when the contract was executed.

(2) The city had filed with the local agency formation commission a resolution protesting the execution of the contract.

(3) The local agency formation commission had held a hearing to consider the city’s protest to the contract.

(4) The local agency formation commission had found that the contract would be inconsistent with the publicly desirable future use and control of the land.

(5) The local agency formation commission had approved the city’s protest.

(f) It shall be conclusively presumed that no protest was filed by the city unless there is a record of the filing of the protest and the protest identifies the affected contract and the subject parcel. It shall be conclusively presumed that required notice was given before the execution of the contract.

(g) The option of a city to not succeed to a contract shall extend only to that part of the land that was within one mile of the city’s boundary when the contract was executed.

(h) If the city exercises its option to not succeed to a contract, then the city shall record a certificate of contract termination with the county recorder at the same time as the executive officer of the local agency formation commission files the certificate of completion pursuant to Section 57203. The certificate of contract termination shall include a legal description of the land for which the city terminates the contract.

SEC. 2. Section 51243.6 is added to the Government Code, to read:

51243.6. The Legislature finds and declares the following:

(a) The enforceability of contracts entered into pursuant to this article is necessary to permit the preferential taxation provided to the owners of land under contract, pursuant to Section 8 of Article XIII of the California Constitution.

(b) The option granted to a city pursuant to Section 51243.5 to elect not to succeed to a contract may be held only by the city.

(c) No contracting landowner has a reasonable expectation that a contract can be terminated immediately pursuant to this article without penalty.

SEC. 3. Section 56754 of the Government Code is amended to read:

56754. If a change of organization or reorganization would result in the annexation to a city of land that is subject to a contract executed
pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1), the commission, based on substantial evidence in the record, shall determine one of the following:

(a) That the city shall succeed to the rights, duties, and powers of the county pursuant to Section 51243, or

(b) That the city may exercise its option to not succeed to the rights, duties, and powers of the county pursuant to Section 51243.5.

SEC. 4. Notwithstanding subdivisions (d) and (e) of Section 51243.5 of the Government Code, a city may exercise its option not to succeed to the rights, duties, and powers of a county under a contract executed pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1 of Title 5 of the Government Code), if the contract was entered into between January 1, 1968, and December 31, 1968, the land being annexed was within one mile of the city’s boundary when the contract was executed, and the local agency formation commission made the determination pursuant to subdivision (b) of Section 56754 of the Government Code prior to January 1, 2002.

CHAPTER 189

An act to add Section 4850.4 to the Labor Code, relating to workers’ compensation.

[Approved by Governor July 15, 2002. Filed with Secretary of State July 15, 2002.]

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

SECTION 1. Section 4850.4 is added to the Labor Code, to read:

4850.4. (a) A city, county, special district, or harbor district that is a member of the Public Employees’ Retirement System, is subject to the County Employees Retirement Law of 1937, or is subject to the Los Angeles City Employees’ Retirement Systems, shall make advanced disability pension payments in accordance with Section 4850.3 unless any of the following is applicable:

(1) After an examination of the employee by a physician, the physician determines that there is no discernable injury to, or illness of, the employee.

(2) The employee was incontrovertibly outside the course of his or her employment duties when the injury occurred.

(3) There is proof of fraud associated with the filing of the employee’s claim.
(b) Any employer described in subdivision (a) who is required to make advanced disability pension payments, shall make the payments commencing no later than 30 days from the date of issuance of the last disbursed of the following:
   (1) The employee’s last regular payment of wages or salary.
   (2) The employee’s last payment of benefits under Section 4850.
   (3) The employee’s last payment for sick leave.
   (c) The advanced disability payments shall continue until the claimant is approved or disapproved for a disability allowance pursuant to final adjudication as provided by law.
   (d) An employer described in subdivision (a) shall be required to make advanced disability pension payments only if the employee does all of the following:
      (1) Files an application for disability retirement at least 60 days prior to the payment of benefits pursuant to subdivision (a).
      (2) Fully cooperates in providing the employer with medical information and in attending all statutorily required medical examinations and evaluations set by the employer.
      (3) Fully cooperates with the evaluation process established by the retirement plan.
   (e) The 30-day period for the commencement of payments pursuant to subdivision (b) shall be tolled by whatever period of time is directly related to the employee’s failure to comply with the provisions of subdivision (d).

CHAPTER  190

An act to add and repeal Sections 20677.7, 20677.8, and 20683.4 of the Government Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 16, 2002. Filed with Secretary of State July 17, 2002.]

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

SECTION 1. The Legislature finds and declares that the purpose of this act is to approve agreements pursuant to Section 3517 of the Government Code entered into by the state employer and Bargaining Unit 14, California State Employees Association, Printing Trades; Bargaining Unit 17, California State Employees Association,
Registered Nurses; and Bargaining Unit 20, California State Employees Association, Medical and Social Services.

SEC. 2. The provisions of the memoranda of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and the bargaining units described in Section 1, and that require the expenditure of funds or legislative action to permit their implementation, are hereby approved for the purposes of Section 3517.6 of the Government Code.

SEC. 3. The provisions of the memoranda of understanding approved by Section 2 of this act that are scheduled to take effect on or after July 1, 2002, and that require the expenditure of funds, shall not take effect unless funds for these provisions are specifically appropriated by the Legislature. In the event that funds for these provisions are not specifically appropriated by the Legislature, the state employer and the affected employee organization shall meet and confer to renegotiate the affected provisions.

SEC. 4. Notwithstanding Section 3517.6 of the Government Code, the provisions of any memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.

SEC. 5. Section 20677.7 is added to the Government Code, to read:

20677.7. (a) Notwithstanding any provision of this part to the contrary, the normal rate of contribution for state miscellaneous or industrial members in State Bargaining Unit 17 shall be the following:

1. Effective as of a date to be determined by the Director of the Department of Personnel Administration, but no earlier than May 1, 2002, to June 30, 2002, inclusive, the normal rate of contribution for a member whose service is not included in the federal system shall be 3.5 percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid that member for service rendered.

2. Effective July 1, 2002, to June 30, 2003, inclusive, the normal rate of contribution for a member whose service is not included in the federal system shall be 1 percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid that member for service rendered.

3. Effective as of a date to be determined by the Director of the Department of Personnel Administration, but no earlier than May 1, 2002, to June 30, 2002, inclusive, the normal rate of contribution for a member whose service has been included in the federal system shall be 2.5 percent of the compensation in excess of five hundred thirteen dollars ($513) per month paid that member for service rendered.

4. Effective July 1, 2002, to June 30, 2003, inclusive, the normal rate of contribution for a member whose service has been included in the
federal system shall be zero percent of the compensation for service rendered.

(b) Notwithstanding any provision of Section 21073.7 to the contrary, a member who elects to become subject to the benefits prescribed in Section 21354.1 and who is subject to this section shall be subject to the normal rate of contribution set forth in this section.

(c) This section does not apply to state miscellaneous or state industrial members who are subject to Section 21076.

(d) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

(e) This section shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute that is enacted before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 6. Section 20677.8 is added to the Government Code, to read:

20677.8. (a) Notwithstanding any provision of this part to the contrary, the normal rate of contribution for state miscellaneous or industrial members in State Bargaining Unit 14 or 20 shall be the following:

(1) Effective as of a date to be determined by the Director of the Department of Personnel Administration, but no earlier than May 1, 2002, to June 30, 2003, inclusive, the normal rate of contribution for a member whose service is not included in the federal system shall be 1 percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid that member for service rendered.

(2) Effective as of a date to be determined by the Director of the Department of Personnel Administration, but no earlier than May 1, 2002, to June 30, 2003, inclusive, the normal rate of contribution for a member whose service has been included in the federal system shall be zero percent of the compensation for service rendered.

(b) Notwithstanding any provision of Section 21073.7 to the contrary, a member who elects to become subject to the benefits prescribed in Section 21354.1 and who is subject to this section shall be subject to the normal rate of contribution set forth in this section.

(c) This section does not apply to state miscellaneous members who are subject to Section 21076.

(d) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further
legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

(e) This section shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute that is enacted before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 20683.4 is added to the Government Code, to read:

20683.4. (a) Notwithstanding any provision of Section 20683 to the contrary, effective as of a date to be determined by the Director of the Department of Personnel Administration, but no earlier than May 1, 2002, to June 30, 2003, inclusive, the normal rate of contribution for state safety members subject to Section 21369.1 in State Bargaining Unit 20 shall be 1 percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid to that member for service rendered.

(b) This section does not apply to members employed by the California State University or the University of California.

(c) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

(d) This section shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends the date on which it becomes inoperative and is repealed.

SEC. 8. The sum of four million eight hundred thirty-seven thousand dollars ($4,837,000) is hereby appropriated for expenditure in the 2001–02 fiscal year in augmentation of, and for the purpose of state employee compensations as provided in, Items 9800-001-0001, 9800-001-0494, and 9800-001-0988 of Section 2.00 of the Budget Act of 2001 (Chapter 106 of the Statutes of 2001) in accordance with the following schedule:

(a) Four million one hundred seventy thousand dollars ($4,170,000) from the General Fund in augmentation of Item 9800-001-0001.

(b) Four hundred twenty-seven thousand dollars ($427,000) from unallocated special funds in augmentation of Item 9800-001-0494.

(c) Two hundred forty thousand dollars ($240,000) from other unallocated nongovernmental cost funds in augmentation of Item 9800-001-0988.
SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible in the 2001–02 fiscal year, and thereby facilitate the orderly administration of state government at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 191

An act to add Chapter 20.5 (commencing with Section 22475) to Division 8 of the Business and Professions Code, relating to magazine distributors.

[Approved by Governor July 16, 2002. Filed with Secretary of State July 17, 2002.]

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

SECTION 1. Chapter 20.5 (commencing with Section 22475) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 20.5. MAGAZINE DISTRIBUTORS

22475. (a) A magazine distributor, or any person, firm, or corporation representing a magazine distributor shall clearly and conspicuously place the subscription expiration date on all magazine renewal notices mailed to its subscribers or direct subscribers to refer to the magazine’s mailing label to find the subscription expiration date.

(b) All magazine mailing labels shall clearly and conspicuously disclose the subscription expiration date.

CHAPTER 192

An act to add Section 6219 to the Family Code, relating to domestic violence.

[Approved by Governor July 16, 2002. Filed with Secretary of State July 17, 2002.]
The people of the State of California do enact as follows:

SECTION 1. Section 6219 is added to the Family Code, to read:

6219. Subject to adequate, discretionary funding from a city or a county, the superior courts in San Diego County and in Santa Clara County may develop a demonstration project to identify the best practices in civil, juvenile, and criminal court cases involving domestic violence. The superior courts in any other county that is able and willing may also participate in the demonstration project. The superior courts participating in this demonstration project shall report their findings and recommendations to the Judicial Council and the Legislature on or before May 1, 2004. The Judicial Council may make those recommendations available to any court or county.

CHAPTER 193

An act to add Section 1708.6 to the Civil Code, relating to domestic violence.

[Approved by Governor July 16, 2002. Filed with Secretary of State July 17, 2002.]

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

SECTION 1. The Legislature finds and declares the following:

(a) Acts of violence occurring in a domestic context are increasingly widespread.

(b) These acts merit special consideration as torts, because the elements of trust, physical proximity, and emotional intimacy necessary to domestic relationships in a healthy society makes participants in those relationships particularly vulnerable to physical attack by their partners.

(c) It is the purpose of this act to enhance the civil remedies available to victims of domestic violence in order to underscore society’s condemnation of these acts, to ensure complete recovery to victims, and to impose significant financial consequences upon perpetrators.

SEC. 2. Section 1708.6 is added to the Civil Code, to read:

1708.6. (a) A person is liable for the tort of domestic violence if the plaintiff proves both of the following elements:

(1) The infliction of injury upon the plaintiff resulting from abuse, as defined in subdivision (a) of Section 13700 of the Penal Code.

(2) The abuse was committed by the defendant, a person having a relationship with the plaintiff as defined in subdivision (b) of Section 13700 of the Penal Code.
(b) A person who commits an act of domestic violence upon another is liable to that person for damages, including, but not limited to, general damages, special damages, and punitive damages pursuant to Section 3294.

(c) The court, in an action pursuant to this section, may grant to a prevailing plaintiff equitable relief, an injunction, costs, and any other relief that the court deems proper, including reasonable attorney's fees.

(d) The rights and remedies provided in this section are in addition to any other rights and remedies provided by law.

(e) The time for commencement of an action under this section is governed by Section 340.15 of the Code of Civil Procedure.

CHAPTER 194

An act to amend Section 1108 of the Evidence Code, and to amend Section 784.7 of the Penal Code, relating to sex crimes.

[Approved by Governor July 16, 2002. Filed with Secretary of State July 17, 2002.]

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

SECTION 1. Section 1108 of the Evidence Code is amended to read:

1108. (a) In a criminal action in which the defendant is accused of a sexual offense, evidence of the defendant's commission of another sexual offense or offenses is not made inadmissible by Section 1101, if the evidence is not inadmissible pursuant to Section 352.

(b) In an action in which evidence is to be offered under this section, the people shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least 30 days before the scheduled date of trial or at such later time as the court may allow for good cause.

(c) This section shall not be construed to limit the admission or consideration of evidence under any other section of this code.

(d) As used in this section, the following definitions shall apply:

1. "Sexual offense" means a crime under the law of a state or of the United States that involved any of the following:

   (A) Any conduct proscribed by Section 243.4, 261, 261.5, 262, 264.1, 266c, 269, 286, 288, 288a, 288.2, 288.5, or 289, or subdivision (b), (c), or (d) of Section 311.2 or Section 311.3, 311.4, 311.10, 311.11, 314, or 647.6, of the Penal Code.
(B) Any conduct proscribed by Section 220 of the Penal Code, except assault with intent to commit mayhem.

(C) Contact, without consent, between any part of the defendant’s body or an object and the genitals or anus of another person.

(D) Contact, without consent, between the genitals or anus of the defendant and any part of another person’s body.

(E) Deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person.

(F) An attempt or conspiracy to engage in conduct described in this paragraph.

(2) “Consent” shall have the same meaning as provided in Section 261.6 of the Penal Code, except that it does not include consent which is legally ineffective because of the age, mental disorder, or developmental or physical disability of the victim.

SEC. 2. Section 784.7 of the Penal Code is amended to read:

784.7. (a) When more than one violation of Section 220, except assault with intent to commit mayhem, 261, 262, 264.1, 269, 286, 288, 288a, 288.5, or 289 occurs in more than one jurisdictional territory, the jurisdiction of any of those offenses, and for any offenses properly joinable with that offense, is in any jurisdiction where at least one of the offenses occurred, subject to a hearing, pursuant to Section 954, within the jurisdiction of the proposed trial. At the Section 954 hearing, the prosecution shall present evidence in writing that all district attorneys in counties with jurisdiction of the offenses agree to the venue. Charged offenses from jurisdictions where there is no written agreement from the district attorney shall be returned to that jurisdiction.

(b) When more than one violation of Section 273a, 273.5, or 646.9 occurs in more than one jurisdictional territory, and the defendant and the victim are the same for all of the offenses, the jurisdiction of any of those offenses and for any offenses properly joinable with that offense, is in any jurisdiction where at least one of the offenses occurred.

CHAPTER 195

An act to amend Section 1363.05 of the Civil Code, relating to common interest developments.

[Approved by Governor July 16, 2002. Filed with Secretary of State July 17, 2002.]

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

SECTION 1. Section 1363.05 of the Civil Code is amended to read:
1363.05. (a) This section shall be known and may be cited as the Common Interest Development Open Meeting Act.

(b) Any member of the association may attend meetings of the board of directors of the association, except when the board adjourns to executive session to consider litigation, matters relating to the formation of contracts with third parties, member discipline, or personnel matters. The board of directors of the association shall meet in executive session, if requested by a member who may be subject to a fine, penalty, or other form of discipline, and the member shall be entitled to attend the executive session.

(c) Any matter discussed in executive session shall be generally noted in the minutes of the immediately following meeting open to the entire membership.

(d) The minutes, minutes proposed for adoption that are marked to indicate draft status, or a summary of the minutes, of any meeting of the board of directors of an association, other than an executive session, shall be available to members within 30 days of the meeting. The minutes, proposed minutes, or summary minutes shall be distributed to any member of the association upon request and upon reimbursement of the association’s costs for making that distribution.

(e) Members of the association shall be notified in writing at the time that the pro forma budget required in Section 1365 is distributed, or at the time of any general mailing to the entire membership of the association, of their right to have copies of the minutes of meetings of the board of directors, and how and where those minutes may be obtained.

(f) As used in this section, “meeting” includes any congregation of a majority of the members of the board at the same time and place to hear, discuss, or deliberate upon any item of business scheduled to be heard by the board, except those matters that may be discussed in executive session.

(g) Unless the time and place of meeting is fixed by the bylaws, or unless by bylaws provide for a longer period of notice, members shall be given notice of the time and place of a meeting as defined in subdivision (f), except for an emergency meeting, at least four days prior to the meeting. Notice may be given by posting the notice in a prominent place or places within the common area, by mail or delivery of the notice to each unit in the development, or by newsletter or similar means of communication.

(h) An emergency meeting of the board may be called by the president of the association, or by any two members of the governing body other than the president, if there are circumstances that could not have been reasonably foreseen which require immediate attention and possible
action by the board, and which of necessity make it impracticable to provide notice as required by this section.

(i) The board of directors of the association shall permit any member of the association to speak at any meeting of the association or the board of directors, except for meetings of the board held in executive session. A reasonable time limit for all members of the association to speak to the board of directors or before a meeting of the association shall be established by the board of directors.

CHAPTER 196

An act to amend Sections 4017.1 and 5071 of the Penal Code, and to amend Section 219.5 of the Welfare and Institutions Code, relating to employment of offenders.

[Approved by Governor July 16, 2002. Filed with Secretary of State July 17, 2002.]

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

SECTION 1. Section 4017.1 of the Penal Code is amended to read:

4017.1. (a) Any person confined in a county jail, industrial farm, road camp, or city jail who is required or permitted by an order of the board of supervisors or city council to perform work, and who is described in subdivision (b), and any person while performing community service in lieu of a fine or custody who is described in subdivision (b), may not be employed to perform any function that provides access to personal information of private individuals, including, but not limited to: addresses; telephone numbers; health insurance, taxpayer, school, or employee identification numbers; mothers’ maiden names; demand deposit account, debit card, credit card, savings, or checking account numbers, PINs, or passwords; social security numbers; places of employment; dates of birth; state or government issued driver’s license or identification numbers; alien registration numbers; government passport numbers; unique biometric data, such as fingerprints, facial scan identifiers, voice prints, retina or iris images, or other similar identifiers; unique electronic identification numbers; address or routing codes; and telecommunication identifying information or access devices.

(b) Subdivision (a) shall apply to a person who has been convicted of an offense described by any of the following categories:

(1) An offense involving forgery or fraud.

(2) An offense involving misuse of a computer.
(3) An offense for which the person is required to register as a sex offender pursuant to Section 290.

(4) An offense involving any misuse of the personal or financial information of another person.

(c) Any person confined in a county jail, industrial farm, road camp, or city jail who has access to any personal information shall disclose that he or she is confined before taking any personal information from anyone.

(d) This section shall not apply to inmates in employment programs or public service facilities where incidental contact with personal information may occur.

SEC. 2. Section 5071 of the Penal Code is amended to read:

5071. (a) The Director of Corrections shall not assign any prison inmate described in subdivision (b) to employment that provides that inmate with access to personal information of private individuals, including, but not limited to: addresses; telephone numbers; health insurance, taxpayer, school, or employee identification numbers; mothers’ maiden names; demand deposit account, debit card, credit card, savings, or checking account numbers, PINs, or passwords; social security numbers; places of employment; dates of birth; state or government issued driver’s license or identification numbers; alien registration numbers; government passport numbers; unique biometric data, such as fingerprints, facial scan identifiers, voice prints, retina or iris images, or other similar identifiers; unique electronic identification numbers; address or routing codes; and telecommunication identifying information or access devices.

(b) Subdivision (a) shall apply to a person who has been convicted of an offense described by any of the following categories:

(1) An offense involving forgery or fraud.

(2) An offense involving misuse of a computer.

(3) An offense for which the person is required to register as a sex offender pursuant to Section 290.

(4) An offense involving any misuse of the personal or financial information of another person.

(c) Any person who is a prison inmate, and who has access to any personal information, shall disclose that he or she is a prison inmate before taking any personal information from anyone.

(d) This section shall not apply to inmates in employment programs or public service facilities where incidental contact with personal information may occur.

SEC. 3. Section 219.5 of the Welfare and Institutions Code is amended to read:

219.5. (a) No ward of the juvenile court or Department of the Youth Authority shall perform any function that provides access to personal
information of private individuals, including, but not limited to: addresses; telephone numbers; health insurance, taxpayer, school, or employee identification numbers; mothers’ maiden names; demand deposit account, debit card, credit card, savings or checking account numbers, PINs, or passwords; social security numbers; places of employment; dates of birth; state or government issued driver’s license or identification numbers; alien registration numbers; government passport numbers; unique biometric data, such as fingerprints, facial scan identifiers, voice prints, retina or iris images, or other similar identifiers; unique electronic identification numbers; address or routing codes; and telecommunication identifying information or access devices.

(b) Subdivision (a) shall apply to a person who has been adjudicated to have committed an offense described by any of the following categories:

(1) An offense involving forgery or fraud.
(2) An offense involving misuse of a computer.
(3) An offense for which the person is required to register as a sex offender pursuant to Section 290 of the Penal Code.
(4) An offense involving any misuse of the personal or financial information of another person.

(c) If asked, any person who is a ward of the juvenile court or the Department of the Youth Authority, and who has access to any personal information, shall disclose that he or she is a ward of the juvenile court or the Department of the Youth Authority before taking any personal information from anyone.

(d) Any program involving the taking of personal information over the telephone by a person who is a ward of the juvenile court or the Department of the Youth Authority, shall be subject to random monitoring of those telephone calls.

(e) Any program involving the taking of personal information by a person who is a ward of the juvenile court or the Department of the Youth Authority shall provide supervision at all times of the ward’s activities.

(f) This section shall not apply to wards in employment programs or public service facilities where incidental contact with personal information may occur.

CHAPTER 197

An act to amend Section 22353 of the Business and Professions Code, and to amend Sections 415.50, 699.080, and 706.108 of the Code of Civil Procedure, relating to service of process.
The people of the State of California do enact as follows:

SECTION 1. Section 22353 of the Business and Professions Code is amended to read:

22353. (a) A certificate of registration shall be accompanied by a bond of two thousand dollars ($2,000), executed by an admitted surety insurer and conditioned upon compliance with the provisions of this chapter and all laws governing the service of process in this state. The total aggregate liability on the bond is limited to two thousand dollars ($2,000). As an alternative to the bond, the registrant may deposit with the clerk, cash or a money order in the amount of two thousand dollars ($2,000).

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

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

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

SEC. 2. Section 415.50 of the Code of Civil Procedure is amended to read:

415.50. (a) A summons may be served by publication if upon affidavit it appears to the satisfaction of the court in which the action is pending that the party to be served cannot with reasonable diligence be served in another manner specified in this article and that either:

1. A cause of action exists against the party upon whom service is to be made or he or she is a necessary or proper party to the action.

2. The party to be served has or claims an interest in real or personal property in this state that is subject to the jurisdiction of the court or the relief demanded in the action consists wholly or in part in excluding the party from any interest in the property.

(b) The court shall order the summons to be published in a named newspaper, published in this state, that is most likely to give actual notice
to the party to be served and direct that a copy of the summons, the complaint, and the order for publication be forthwith mailed to the party if his or her address is ascertained before expiration of the time prescribed for publication of the summons. Except as otherwise provided by statute, the publication shall be made as provided by Section 6064 of the Government Code unless the court, in its discretion, orders publication for a longer period.

(c) Service of a summons in this manner is deemed complete as provided in Section 6064 of the Government Code.

(d) Notwithstanding an order for publication of the summons, a summons may be served in another manner authorized by this chapter, in which event the service shall supersede any published summons.

(e) As a condition of establishing that the party to be served cannot with reasonable diligence be served in another manner specified in this article, the court may not require that a search be conducted of public databases where access by a registered process server to residential addresses is prohibited by law or by published policy of the agency providing the database, including, but not limited to, voter registration rolls and records of the Department of Motor Vehicles.

SEC. 3. Section 699.080 of the Code of Civil Procedure is amended to read:

699.080. (a) A registered process server may levy under a writ of execution on the following types of property:

(1) Real property, pursuant to Section 700.015.

(2) Growing crops, timber to be cut, or minerals or the like (including oil and gas) to be extracted or accounts receivable resulting from the sale thereof at the wellhead or minehead, pursuant to Section 700.020.

(3) Personal property in the custody of a levying officer, pursuant to Section 700.050.

(4) Personal property used as a dwelling, pursuant to subdivision (a) of Section 700.080.

(5) Deposit accounts, pursuant to Section 700.140.

(6) Property in a safe-deposit box, pursuant to Section 700.150.

(7) Accounts receivable or general intangibles, pursuant to Section 700.170.

(8) Final money judgments, pursuant to Section 700.190.

(9) Interest of a judgment debtor in personal property in the estate of a decedent, pursuant to Section 700.200.

(b) Before levying under the writ of execution, the registered process server shall deposit a copy of the writ with the levying officer and pay the fee provided by Section 26721 of the Government Code.

(c) If a registered process server levies on property pursuant to subdivision (a), the registered process server shall do both of the following:
(1) Comply with the applicable levy, posting, and service provisions of Article 4 (commencing with Section 700.010).

(2) Request any third person served to give a garnishee’s memorandum to the levying officer in compliance with Section 701.030 on a form provided by the registered process server.

(d) Within five days after levy under this section, all of the following shall be filed with the levying officer:

(1) The writ of execution.

(2) An affidavit of the registered process server stating the manner of levy performed.

(3) Proof of service of the copy of the writ and notice of levy on other persons, as required by Article 4 (commencing with Section 700.010).

(4) Instructions in writing, as required by the provisions of Section 687.010.

(e) If the fee provided by Section 26721 of the Government Code has been paid, the levying officer shall perform all other duties under the writ as if the levying officer had levied under the writ and shall return the writ to the court. If the registered process server does not comply with subdivisions (b) and (d), the levy is ineffective and the levying officer is not required to perform any duties under the writ and may issue a release for any property sought to be levied upon.

(f) The fee for services of a registered process server under this section shall be allowed as a recoverable cost pursuant to Section 1033.5.

(g) A registered process server may levy more than once under the same writ of execution, provided that the writ is still valid.

SEC. 4. Section 706.108 of the Code of Civil Procedure is amended to read:

706.108. (a) If a writ of execution has been issued to the county where the judgment debtor’s employer is to be served and the time specified in subdivision (b) of Section 699.530 for levy on property under the writ has not expired, a judgment creditor may deliver an application for issuance of an earnings withholding order to a registered process server who may then issue an earnings withholding order.

(b) If the registered process server has issued the earnings withholding order, the registered process server, before serving the earnings withholding order, shall deposit with the levying officer a copy of the writ of execution, the application for issuance of an earnings withholding order, and a copy of the earnings withholding order, and shall pay the fee provided by Section 26750 of the Government Code.

(c) A registered process server may serve an earnings withholding order on an employer whether the earnings withholding order was issued by a levying officer or by a registered process server, but no earnings withholding order may be served after the time specified in subdivision (b) of Section 699.530. In performing this function, the registered
process server shall serve upon the designated employer all of the following:

(1) The original and one copy of the earnings withholding order.
(2) The form for the employer’s return.
(3) The notice to the employee of the earnings withholding order.
(4) A copy of the employer’s instructions referred to in Section 706.127, except as otherwise prescribed in rules adopted by the Judicial Council.

(d) Within five days after service under this section, all of the following shall be filed with the levying officer:

(1) The writ of execution, if it is not already in the hands of the levying officer.
(2) Proof of service on the employer of the papers listed in subdivision (c).
(3) Instructions in writing, as required by the provisions of Section 687.010.

(e) If the fee provided by Section 26750 of the Government Code has been paid, the levying officer shall perform all other duties required by this chapter as if the levying officer had served the earnings withholding order. If the registered process server does not comply with subdivisions (b), where applicable, and (d), the service of the earnings withholding order is ineffective and the levying officer is not required to perform any duties under the order and may terminate the order and may release any withheld earnings to the judgment debtor.

(f) The fee for services of a registered process server under this section shall be allowed as a recoverable cost pursuant to Section 1033.5.

CHAPTER 198

An act to amend Section 1203.1f of the Penal Code, relating to crime.

[Approved by Governor July 16, 2002. Filed with Secretary of State July 17, 2002.]

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

SECTION 1. Section 1203.1f of the Penal Code is amended to read:

1203.1f. If practicable, the court shall consolidate the ability to pay determination hearings authorized by this code into one proceeding, and the determination of ability to pay made at the consolidated hearing may be used for all purposes.
CHAPTER 199

An act to amend Section 15340 of, and to add Sections 15101 and 15341 to, the Education Code, relating to school facilities improvement districts.

[Approved by Governor July 16, 2002. Filed with Secretary of State July 17, 2002.]

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

SECTION 1. Section 15101 is added to the Education Code, to read:

15101. Notwithstanding any other law, an election may not be held pursuant to this chapter within 45 days before a statewide election or within 45 days after a statewide election unless conducted at the same time as the statewide election, subject to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code, or on an established election date pursuant to Section 1000 of the Elections Code.

SEC. 2. Section 15340 of the Education Code is amended to read:

15340. (a) After adopting the resolution ordering the formation of the school facilities improvement district, the governing board may provide for and call a special bond election within the school facilities improvement district to, or may at the next statewide election, submit to the voters of the school facilities improvement district a proposition of whether or not an indebtedness of the district shall be incurred and bonds issued therefor in an amount not exceeding the estimate stated in the resolution ordering the school facilities improvement district formed.

(b) The indebtedness and the bonds shall be payable from taxes to be levied and collected upon lands located within the school facilities improvement district.

SEC. 3. Section 15341 is added to the Education Code, to read:

15341. Notwithstanding any other law, an election may not be held pursuant to this chapter within 45 days before a statewide election or within 45 days after a statewide election unless conducted at the same time as the statewide election, subject to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code, or on an established election date pursuant to Section 1000 of the Elections Code.

CHAPTER 200

An act to amend Section 42823 of, and to add Section 43018.5 to, the Health and Safety Code, relating to air quality.
The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares all of the following:
(a) Global warming is a matter of increasing concern for public health and the environment in the state.
(b) California is the fifth largest economy in the world.
(c) The control and reduction of emissions of greenhouse gases are critical to slow the effects of global warming.
(d) Global warming would impose on California, in particular, compelling and extraordinary impacts including:
   (1) Potential reductions in the state’s water supply due to changes in the snowpack levels in the Sierra Nevada Mountains and the timing of spring runoff.
   (2) Adverse health impacts from increases in air pollution that would be caused by higher temperatures.
   (3) Adverse impacts upon agriculture and food production caused by projected changes in the amount and consistency of water supplies and significant increases in pestilence outbreaks.
   (4) Projected doubling of catastrophic wildfires due to faster and more intense burning associated with drying vegetation.
   (5) Potential damage to the state’s extensive coastline and ocean ecosystems due to the increase in storms and significant rise in sea level.
   (6) Significant impacts to consumers, businesses, and the economy of the state due to increased costs of food and water, energy, insurance, and additional environmental losses and demands upon the public health infrastructure.
(f) Passenger vehicles and light-duty trucks are responsible for approximately 40 percent of the total greenhouse gas pollution in the state.
(f) California has a long history of being the first in the nation to take action to protect public health and the environment, and the federal government has permitted the state to take those actions.
(g) Technological solutions to reduce greenhouse gas emissions will stimulate the California economy and provide enhanced job opportunities. This will continue the California automobile worker tradition of building cars that use cutting edge technology.
(h) It is the intent of the Legislature to require the State Air Resources Board to adopt regulations that ensure reductions in emissions of greenhouse gases in furtherance of Division 26 (commencing with Section 39000) of the Health and Safety Code. It is the further intent of
the Legislature that the greenhouse gas regulations take effect in accordance with any limitations that may be imposed pursuant to the federal Clean Air Act (42 U.S.C. Section 7401 et seq., as amended by the federal Clean Air Act Amendments of 1990 (Pub. L. 101-549)) and the waiver provisions of the federal act.

SEC. 2. Section 42823 of the Health and Safety Code is amended to read:

42823. The registry shall perform all of the following functions:

(a) Provide participants with referrals to approved providers for technical assistance and advice, upon the request of a participant, on any or all of the following:

(1) Designing programs to establish greenhouse gas emissions baselines and to monitor, estimate, calculate, report, and certify greenhouse gas emissions.

(2) Establishing emissions reduction goals based on international or federal best practices for specific industries and economic sectors.

(3) Designing and implementing organization-specific plans that improve energy efficiency or utilize renewable energy, or both, and that are capable of achieving emission reduction targets.

(b) In coordination with the State Energy Resources Conservation and Development Commission, the registry shall adopt and periodically update a list of organizations recognized by the state as qualified to provide the detailed technical assistance and advice in subdivision (a) and assist participants in identifying and selecting providers that have expertise applicable to each participant’s circumstances.

(c) Adopt procedures and protocols for certification of reported baseline emissions and emissions results. When adopting procedures and protocols for the certification, the registry shall consider the availability and suitability of simplified techniques and tools.

(d) Qualify third-party organizations that have the capability to certify reported baseline emissions and emissions results, and that are capable of certifying the participant-reported results as provided in this chapter.

(e) Adopt procedures and protocols, including a uniform format for reporting emissions baselines and emissions results to facilitate their recognition in any future regulatory regime.

(f) Maintain a record of all certified greenhouse gas emissions baselines and emissions results. Separate records shall be kept for direct and indirect emissions results. The public shall have access to this record, except for any portion of the data or information that is exempt from disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).
(g) Encourage organizations from various sectors of the state’s economy, and those from various geographic regions of the state, to report emissions, establish baselines and reduction targets, and implement efficiency improvement and renewable energy programs to achieve those targets.

(h) Recognize, publicize, and promote participants.

(i) In coordination with the State Energy Resources Conservation and Development Commission and the state board, adopt industry-specific reporting metrics at one or more public meetings.

(j) In consultation with the state board, adopt procedures and protocols for the reporting and certification of reductions in emissions of greenhouse gases, to the extent permitted by state and federal law, for those reductions achieved prior to the operative date of the regulations described in subdivision (a) of Section 43018.5.

SEC. 3. Section 43018.5 is added to the Health and Safety Code, to read:

43018.5. (a) No later than January 1, 2005, the state board shall develop and adopt regulations that achieve the maximum feasible and cost-effective reduction of greenhouse gas emissions from motor vehicles.

(b) (1) The regulations adopted pursuant to subdivision (a) may not take effect prior to January 1, 2006, in order to give the Legislature time to review the regulations and determine whether further legislation should be enacted prior to the effective date of the regulations, and shall apply only to a motor vehicle manufactured in the 2009 model year, or any model year thereafter.

(2) (A) Within 10 days of adopting the regulations pursuant to subdivision (a), the state board shall transmit the regulations to the appropriate policy and fiscal committees of the Legislature for review.

(B) The Legislature shall hold at least one public hearing to review the regulations. If the Legislature determines that the regulations should be modified, it may adopt legislation to modify the regulations.

(c) In developing the regulations described in subdivision (a), the state board shall do all of the following:

(1) Consider the technological feasibility of the regulations.

(2) Consider the impact the regulations may have on the economy of the state, including, but not limited to, all of the following areas:

(A) The creation of jobs within the state.

(B) The creation of new businesses or the elimination of existing businesses within the state.

(C) The expansion of businesses currently doing business within the state.

(D) The ability of businesses in the state to compete with businesses in other states.
(E) The ability of the state to maintain and attract businesses in communities with the most significant exposure to air contaminants, localized air contaminants, or both, including, but not limited to, communities with minority populations or low-income populations, or both.

(F) The automobile workers and affiliated businesses in the state.

(3) Provide flexibility, to the maximum extent feasible consistent with this section, in the means by which a person subject to the regulations adopted pursuant to subdivision (a) may comply with the regulations. That flexibility shall include, but is not limited to, authorization for a person to use alternative methods of compliance with the regulations. In complying with this paragraph, the state board shall ensure that any alternative methods for compliance achieve the equivalent, or greater, reduction in emissions of greenhouse gases as the emission standards contained in the regulations. In providing compliance flexibility pursuant to this paragraph, the state board may not impose any mandatory trip reduction measure or land use restriction.

(4) Conduct public workshops in the state, including, but not limited to, public workshops in three of the communities in the state with the most significant exposure to air contaminants or localized air contaminants, or both, including, but not limited to, communities with minority populations or low-income populations, or both.

(5) (A) Grant emissions reductions credits for any reductions in greenhouse gas emissions from motor vehicles that were achieved prior to the operative date of the regulations adopted pursuant to subdivision (a), to the extent permitted by state and federal law governing emissions reductions credits, by utilizing the procedures and protocols adopted by the California Climate Action Registry pursuant to subdivision (j) of Section 42823.

(B) For the purposes of this section, the state board shall utilize the 2000 model year as the baseline for calculating emission reduction credits.

(6) Coordinate with the State Energy Resources Conservation and Development Commission, the California Climate Action Registry, and the interagency task force, convened pursuant to subdivision (e) of Section 25730 of the Public Resources Code, in implementing this section.

(d) The regulations adopted by the state board pursuant to subdivision (a) shall not require any of the following:

(1) The imposition of additional fees and taxes on any motor vehicle, fuel, or vehicle miles traveled, pursuant to this section or any other provision of law.

(2) A ban on the sale of any vehicle category in the state, specifically including, but not limited to, sport utility vehicles and light-duty trucks.
(3) A reduction in vehicle weight.
(4) A limitation on, or reduction of, the speed limit on any street or highway in the state.
(5) A limitation on, or reduction of, vehicle miles traveled.
(e) The regulations adopted by the state board pursuant to subdivision (a) shall provide an exemption for those vehicles subject to the optional low-emission vehicle standard for oxides of nitrogen (NO\textsubscript{x}) for exhaust emission standards described in paragraph (9) of subdivision (a) of Section 1961 of Title 13 of the California Code of Regulations.
(f) Not later than July 1, 2003, the California Climate Action Registry, in consultation with the state board, shall adopt procedures for the reporting of reductions in greenhouse gas emissions from mobile sources to the registry.
(g) By January 1, 2005, the state board shall report to the Legislature and the Governor on the content of the regulations developed and adopted pursuant to this section, including, but not limited to, the specific actions taken by the state board to comply with paragraphs (1) to (6), inclusive, of subdivision (c), and with subdivision (f). The report shall include, but shall not be limited to, an analysis of both of the following:
(1) The impact of the regulations on communities in the state with the most significant exposure to air contaminants or toxic air contaminants, or both, including, but not limited to, communities with minority populations or low-income populations, or both.
(2) The economic and public health impacts of those actions on the state.
(h) If the federal government adopts a standard regulating a greenhouse gas from new motor vehicles that the state board determines is in a substantially similar timeframe, and of equivalent or greater effectiveness as the regulations that would be adopted pursuant to this section, the state board may elect not to adopt a standard on any greenhouse gas included in the federal standard.
(i) For the purposes of this section, the following terms have the following meanings:
(1) “Greenhouse gases” means those gases listed in subdivision (g) of Section 42801.1.
(2) “Maximum feasible and cost-effective reduction of greenhouse gas emissions” means the greenhouse gas emission reductions that the state board determines meet both of the following criteria:
(A) Capable of being successfully accomplished within the time provided by this section, taking into account environmental, economic, social, and technological factors.
(B) Economical to an owner or operator of a vehicle, taking into account the full life-cycle costs of a vehicle.
(3) “Motor vehicle” means a passenger vehicle, light-duty truck, or any other vehicle determined by the state board to be a vehicle whose primary use is noncommercial personal transportation.

SEC. 4. Paragraphs (3) and (4) of subdivision (d) of Section 43018.5 of the Health and Safety Code, as added by this act, do not constitute a change in, but are declaratory of, the existing law.

CHAPTER 201

An act to amend Section 99314.5 of the Public Utilities Code, relating to transportation.

[Approved by Governor July 22, 2002. Filed with Secretary of State July 22, 2002.]

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

SECTION 1. Section 99314.5 of the Public Utilities Code is amended to read:

99314.5. (a) No funds allocated pursuant to Section 99313.3 or 99314.3 shall be allocated to an operator unless it is eligible for allocations under Article 4 (commencing with Section 99260), without considering any funds to be allocated to it pursuant to those sections, or it is in a county in which funds may be allocated for purposes specified in Section 99400.

(b) No funds allocated pursuant to Section 99313.3 shall be allocated to a city or county for the purposes specified in subdivisions (b), (c), (d), and (e) of Section 99400 unless it is eligible for allocations under Article 8 (commencing with Section 99400) for those purposes, without considering any funds to be allocated to it pursuant to that section.

(c) It is the intent of the Legislature that, in allocating the funds, the transportation planning agencies and the county transportation commissions, and the San Diego Metropolitan Transit Development Board, give priority consideration to claims to offset reductions in federal operating assistance and the unanticipated increase in the cost of fuel, to enhance existing public transportation services, and to meet high-priority regional, countywide, or areawide public transportation needs.

(d) No funds allocated pursuant to Section 99313.3 or 99314.3 shall be allocated to a claimant for the purposes specified in Section 99275 unless it is eligible for allocation under Article 4.5 (commencing with Section 99275) for those purposes, without considering any funds to be allocated to it pursuant to those sections.
(e) Nothing in this section shall be construed to prohibit, or limit the ability of, a public transit operator to do the following:

(1) Contract with common carriers of persons operating under a franchise or license.

(2) Employ part-time drivers.

CHAPTER 202

An act to amend and renumber Section 32320 of, and to repeal the heading of Article 3 (commencing with Section 32320) of Chapter 3 of Part 19 of, the Education Code, relating to public postsecondary education.

[Approved by Governor July 29, 2002. Filed with Secretary of State July 29, 2002.]

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

SECTION 1. The heading of Article 3 (commencing with Section 32320) of Chapter 3 of Part 19 of the Education Code is repealed.

SEC. 2. Section 32320 of the Education Code is amended and renumbered to read:

66025.3. (a) No campus of the University of California, the California State University, or the California Community Colleges shall charge any mandatory systemwide tuition or fees, including enrollment fees, registration fees, differential fees, or incidental fees, to any of the following:

(1) Any dependent eligible to receive assistance under Article 2 (commencing with Section 890) of Chapter 4 of Division 4 of the Military and Veterans Code.

(2) (A) Any child of any veteran of the United States military who has a service-connected disability, has been killed in service, or has died of a service-connected disability, where the annual income of the child, including the value of any support received from a parent, does not exceed the national poverty level as defined in subdivision (c).

(B) Notwithstanding Section 893 of the Military and Veterans Code, the Department of Veterans Affairs may determine the eligibility for fee waivers for a child described in subparagraph (A).

(3) Any dependent, or surviving spouse who has not remarried, of any member of the California National Guard who, in the line of duty, and while in the active service of the state, was killed, died of a disability resulting from an event that occurred while in the active service of the state, or is permanently disabled as a result of an event that occurred
while in the active service of the state. For the purposes of this paragraph, “active service of the state” refers to a member of the California National Guard activated pursuant to Section 146 of the Military and Veterans Code.

(4) (A) Any undergraduate student who is a recipient of a Medal of Honor, commonly known as a Congressional Medal of Honor, or any undergraduate student who is a child of a recipient of a Medal of Honor and that child is no more than 27 years old, if both of the following requirements are met:

(i) His or her annual income, including the value of any support received from a parent, does not exceed the national poverty level as defined in subdivision (c).

(ii) The recipient of the Medal of Honor who is or was the parent of the undergraduate student is, or at the time of his or her death was, a California resident as determined pursuant to Chapter 1 (commencing with Section 68000) of Part 41.

(B) The Department of Veterans Affairs shall determine the eligibility of any applicant for a fee waiver under this paragraph.

(b) A person who is eligible for a waiver of tuition or fees under this section may receive a waiver for each academic year during which he or she applies for that waiver, but an eligible person may not receive a waiver of tuition or fees for a prior academic year.

(c) As used in this section, the “national poverty level” is the poverty threshold for one person, as most recently calculated by the Bureau of the Census of the United States Department of Commerce.

(d) The waiver of tuition or fees under this section shall apply only to a person who is determined to be a resident of California pursuant to Chapter 1 (commencing with Section 68000) of Part 41.

(e) This section shall not apply to a dependent of a veteran within the meaning of paragraph (4) of subdivision (a) of Section 890 of the Military and Veterans Code.

(f) No provision of this section shall apply to the University of California except to the extent that the Regents of the University of California, by appropriate resolution, make that provision applicable.

CHAPTER 203

An act to amend Sections 1628, 1637, 1639, 1656, 1662, 1679, 1704, 1750.5, 1765.2, 1767, 1768, 1781.3, and 10234.93 of, to add Sections 1638.5 and 1639.1 to, to add Article 5.2 (commencing with Section 759) to Chapter 1 of Part 2 of Division 1 of, and to repeal Sections 1647, 1648, 1649, 1659, and 1714 of, the Insurance Code, relating to insurance.
The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares as follows:
(a) Pursuant to the federal government’s Financial Services Modernization Act of 1999 (the Gramm-Leach-Bliley Act), the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve Bank adopted joint consumer protection regulations. In order for California to retain jurisdiction to regulate the insurance sales practices of depository institutions, or persons who are engaged in those activities at an office of a depository institution or on behalf of a depository institution, California law must have similar or stronger consumer protections than those of the four federal agencies. Consequently, it is necessary to add language to the Insurance Code to provide California with consumer protection laws that are uniform with the federal regulations.

(b) The Gramm-Leach-Bliley Act authorizes the establishment of a new organization named the National Association of Registered Agents and Brokers (NARAB). NARAB comes into existence if 29 state and territory insurance regulators do not implement uniform or reciprocal laws for the licensing of nonresident insurance producers by November 2002. NARAB would establish uniform producer licensing laws and provide a mechanism for multistate licensing of insurance producers, thereby preempting state-unique licensing procedures and qualifications. In an effort to avoid the creation of NARAB and preserve state regulation of producer licensing, California should amend the Insurance Code as necessary to create reciprocal licensing laws.

SEC. 2. Article 5.2 (commencing with Section 759) is added to Chapter 1 of Part 2 of Division 1 of the Insurance Code, to read:

Article 5.2. Consumer Protection in Sales of Insurance by or Through Depository Institutions

759. This article establishes consumer protections in connection with retail sales practices, solicitations, advertising, or offers of any insurance product or annuity to a consumer by either of the following:
(a) Any depository institution, as defined in subdivision (b) of Section 760.
(b) Any person who is engaged in those activities at an office of a depository institution or on behalf of a depository institution.

760. As used in this article, the following terms have the following meanings:
(a) “Affiliate” has the same meaning as defined in Section 1215.

(b) “Depository institution” means any of the following:


2. State member banks in the case of the Board of Governors of the Federal Reserve System.


4. Savings associations and operating subsidiaries of savings associations, in the case of the Office of Thrift Supervision.

(c) “Company” means any corporation, partnership, business trust, association, or similar organization, or any other trust, other than a trust that by its terms must terminate within 25 years or not later than 21 years and 10 months after the death of individuals living on the effective date of the trust. “Company” does not include any corporation the majority of the shares of which are owned by the United States or by any state, or a qualified family partnership, as defined in paragraph (10) of subsection (o) of Section 2 of the federal Bank Holding Company Act of 1956, as amended (12 U.S.C. Sec. 1841(o)(10)).

(d) “Consumer” means an individual who purchases, applies to purchase, or is solicited to purchase from a covered person insurance products or annuities primarily for personal, family, or household purposes.

(e) “Control” has the same meaning as defined in Section 1215.

(f) (1) “Covered person” means either of the following:

A. A depository institution.

B. Another person only when the person sells, solicits, advertises, or offers an insurance product or annuity to a consumer at an office of a depository institution, or on behalf of a depository institution.

(2) For purposes of this definition, activities on behalf of a depository institution include activities pursuant to which a person, whether at an office of the depository institution or at another location, sells, solicits, advertises, or offers an insurance product or annuity and where at least one of the following applies:

A. The person represents to a consumer that the sale, solicitation, advertisement, or offer of any insurance product or annuity is by or on behalf of the depository institution.

B. The depository institution refers a consumer to a seller of insurance products or annuities and the institution has a contractual arrangement to receive commissions or fees derived from a sale of an insurance product or annuity resulting from that referral.
(C) Documents evidencing the sale, solicitation, advertising, or offer of an insurance product or annuity identify or refer to the depository institution.

(g) “Electronic media” includes any means for transmitting messages electronically between a covered person and a consumer in a format that allows visual text to be displayed on equipment such as a personal computer monitor.

(h) “Office” means the premises of a depository institution where retail deposits are accepted from the public.

(i) “Subsidiary” has the same meaning as defined in Section 1215.

761. (a) A covered person shall not engage in any practice that would lead a consumer to believe that an extension of credit, in violation of subsection (b) of Section 106 of the federal Bank Holding Company Act Amendments of 1970 (12 U.S.C. Sec. 1972), is conditional upon either of the following:

(1) The purchase of an insurance product or annuity from the depository institution or any of its affiliates.

(2) An agreement by the consumer not to obtain, or a prohibition on the consumer from obtaining, an insurance product or annuity from an affiliated entity.

(b) A covered person shall not engage in any practice or use any advertisement at any office of, or on behalf of, the depository institution or a subsidiary of the depository institution that could mislead any person or otherwise cause a reasonable person to reach an erroneous belief with respect to any of the following:

(1) The fact that any insurance product or annuity sold or offered for sale by a covered person or any subsidiary of the depository institution is not backed by the federal government or the depository institution, or the fact that the insurance product or annuity is not insured by the Federal Deposit Insurance Corporation.

(2) In the case of an insurance product or annuity that involves investment risk, the fact that there is an investment risk, including the potential that principal may be lost and that the product may decline in value.

(3) In the case of a depository institution or subsidiary of the depository institution at which insurance products or annuities are sold or offered for sale, the fact that:

(A) The approval of an extension of credit to the consumer by the depository institution or subsidiary may not be conditioned on the purchase of an insurance product or annuity by the consumer from the depository institution or a subsidiary of the depository institution.

(B) The consumer is free to purchase the insurance product or annuity from another source.
762. (a) In connection with the initial purchase of an insurance product or annuity by a consumer from a covered person, a covered person shall disclose to the consumer, except to the extent the disclosure would not be accurate, all of the following:

1. That the insurance product or annuity is not a deposit or other obligation of, or guaranteed by, the depository institution or an affiliate of the depository institution.

2. That the insurance product or annuity is not insured by the Federal Deposit Insurance Corporation or any other agency of the United States, the depository institution, or, if applicable, an affiliate of the depository institution.

3. In the case of an insurance product or annuity that involves an investment risk, that there is investment risk associated with the product, including the possible loss of value.

(b) In the case of an application for credit in connection with which an insurance product or annuity is solicited, offered, or sold, a covered person shall disclose that the depository institution may not condition an extension of credit on either of the following:

1. The consumer’s purchase of an insurance product or annuity from the depository institution or any of its affiliates.

2. The consumer’s agreement not to obtain, or a prohibition on the consumer from obtaining, an insurance product or annuity from an unaffiliated entity.

(c) (1) The disclosures required by subdivision (a) shall be provided orally and in writing during any solicitation of an insurance product or annuity to a consumer. The disclosures required by subdivision (b) shall also be made orally and in writing at the time the consumer applies for an extension of credit in connection with which an insurance product or annuity will be solicited, offered, or sold.

2. If a sale of an insurance product or annuity is conducted by mail, a covered person is not required to make the oral disclosures required by subdivision (a). If a covered person takes an application for credit by mail, the covered person is not required to make the oral disclosures required by subdivision (b).

3. If the sale of an insurance product or annuity is conducted by telephone, a covered person shall provide the written disclosure required by subdivision (a) by mail within three business days, beginning on the first business day after the sale, but excluding Sundays and the legal public holidays specified in subsection (a) of Section 6103 of Title 5 of the United States Code.

4. Subject to the requirements of subsection (c) of Section 101 of the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. Sec. 7001(c)), a covered person may provide the written disclosures required by subdivisions (a) and (b) through electronic
media instead of paper, if the consumer affirmatively consents to receiving the disclosures electronically and if the disclosures are provided in a format that the consumer may retain or obtain later, for example, through printing or storing electronically by downloading. Any disclosures required by subdivision (a) or (b) that are provided by electronic media are not required to be provided orally.

(5) The disclosures provided shall be conspicuous, simple, direct, readily understandable, and designed to call attention to the nature and significance of the information provided. For example, a covered person may use the following disclosures in visual media, including television, broadcasting, ATM screens, billboards, signs, posters, and written advertisements and promotional materials, as appropriate and consistent with subdivisions (a) and (b):

(A) "NOT A DEPOSIT."
(B) "NOT FDIC-INSURED."
(C) "NOT INSURED BY ANY FEDERAL GOVERNMENT AGENCY."
(D) "NOT GUARANTEED BY THE BANK (OR SAVINGS ASSOCIATION)."
(E) "MAY GO DOWN IN VALUE."

(6) (A) A covered person shall provide the disclosures required by subdivisions (a) and (b) in a meaningful form. Examples of the types of methods that could call attention to the nature and significance of the information provided include all of the following:

(i) A plain language heading to call attention to the disclosure.
(ii) A typeface and type size that are easy to read.
(iii) Wide margins and ample line spacing.
(iv) Boldface or italics for key words.
(v) Distinctive type style, and graphic devices, such as shading or sidebars, when the disclosures are combined with other information.

The disclosures required by subdivisions (a) and (b) shall be in the same language as principally used in any oral solicitation leading to the execution of the purchase by the consumer of the insurance product or annuity.

(B) A covered person has not provided the disclosures in a meaningful form if the covered person merely states to the consumer that the required disclosures are available in printed material, but does not provide the printed material when required and does not orally disclose the information to the consumer when required.

(C) With respect to disclosures made through electronic media for which paper or oral disclosures are not required, the disclosures are not meaningfully provided if the consumer may bypass the visual text of the disclosures before purchasing an insurance product or annuity.
(7) A covered person shall obtain from the consumer, at the time the consumer receives the disclosures required by subdivisions (a) and (b), or at the time of initial purchase by the consumer of the insurance product or annuity, a written acknowledgment by the consumer that the consumer received the disclosures. A covered person may permit a consumer to acknowledge receipt of the disclosures electronically or in paper form. If the disclosures required under subdivisions (a) and (b) are provided in connection with a transaction that is conducted by telephone, a covered person shall do the following:

(A) Obtain an oral acknowledgment of receipt of the disclosures and maintain sufficient documentation to show that the acknowledgment was given.

(B) Make reasonable efforts to obtain a written acknowledgment from the consumer.

(d) The disclosures described in subdivision (a) are required in advertisements and promotional material for insurance products or annuities unless the advertisements or promotional material are of a general nature describing or listing the services or products offered by the depository institution.

763. (a) A depository institution shall, to the extent practicable, keep the area where the depository institution conducts transactions involving insurance products or annuities physically segregated from areas where retail deposits are routinely accepted from the general public, identify the areas where insurance products or annuity sales activities occur, and clearly delineate and distinguish, with appropriate signage, those areas from the areas where the depository institution’s retail deposit-taking activities occur.

(b) Any person who accepts deposits from the public in an area where those transactions are routinely conducted in the depository institution may refer a customer who seeks to purchase an insurance product or an annuity to a qualified person who sells that product only if the person making the referral receives no more than a one-time nominal fee of a fixed dollar amount for each referral that does not depend on whether the referral results in a transaction.

764. A depository institution may not permit any person to sell or offer for sale any insurance product or annuity in any part of its office or on its behalf, unless the person is at all times appropriately qualified and licensed as required by this code with regard to the specific products being sold or recommended.

765. The commissioner may adopt reasonable regulations necessary to administer this article.

SEC. 3. Section 1628 of the Insurance Code is amended to read:

1628. As used in this chapter, an “organization” means any legal entity other than a natural person. Where reference is made to a natural
person named on an organization license, the reference shall be to a person who is named to exercise the power and perform the duties under an organization license. The natural person named on the organizational license shall meet the qualifications required for the type of license sought by the organization.

SEC. 4. Section 1637 of the Insurance Code is amended to read:

1637. An organization may hold any license or licenses necessary to act in the following capacities under this chapter and no others:

(a) A license to act as a life agent.
(b) A license to act as a fire and casualty broker-agent.
(c) A license to act as a cargo shipper’s agent.
(d) A license to act as a personal lines licensee.
(e) A license to act as a credit insurance agent.
(f) A license to act as a rental car agent.
(g) A nonresident license to act as a limited lines licensee pursuant to subdivision (i) of Section 1639.

SEC. 5. Section 1638.5 is added to the Insurance Code, to read:

1638.5. Unless denied licensure pursuant to Article 6 (commencing with Section 1666), a nonresident person shall receive a production agency license if he or she meets the following requirements:

(a) The person is currently licensed and in good standing in the state, territory of the United States, or province of Canada in which he or she is licensed as a resident producer.
(b) The person has submitted the proper request for licensure and has paid the fees required by Section 1750.5.
(c) The person has submitted or transmitted to the Insurance Commissioner the application for licensure that the person submitted to the state, territory of the United States, or province of Canada in which he or she is licensed as a resident, or submitted or transmitted to the commissioner, a completed National Association of Insurance Commissioners (NAIC) Uniform Nonresident Application.
(d) The state, territory of the United States, or province of Canada in which the person holds a resident producer license awards nonresident producer licenses to residents of this state on the same basis.

SEC. 6. Section 1639 of the Insurance Code is amended to read:

1639. The following types of licenses under this chapter may be issued to nonresidents:

(a) A fire and casualty broker-agent if the nonresident is duly licensed to transact more than one class of insurance, other than life insurance, disability insurance, title insurance, or life and disability insurance, under the laws of the state or province of Canada where he or she maintains a resident license to transact insurance.
(b) A personal lines broker-agent if the nonresident is duly licensed to transact those lines of insurance described in Section 1625.5, under
the laws of the state, territory of the United States, or province of Canada where the resident license is maintained.

(c) A life agent if the nonresident possesses a resident license in another state, territory of the United States, or province of Canada to transact life insurance or disability insurance.

(d) A nonresident life agent may be granted authority to transact variable contracts if he or she has been granted that authority by the state where the resident license is maintained.

(e) A surplus line broker and a special lines surplus broker if the nonresident holds that type of license in the state or territory of the United States where the resident license is maintained.

(f) A credit insurance agent if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained.

(g) A rental car agent if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained.

(h) A cargo shipper’s agent if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained.

(i) A limited lines license if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained. As used in this section, “limited lines license” means any authority granted by the resident state that restricts the authority of the license to less than the total authority granted by any of the types of licenses identified in this section.

SEC. 7. Section 1639.1 is added to the Insurance Code, to read:

1639.1. (a) The class or classes of insurance which a nonresident person is licensed to transact under his or her resident license shall be determined according to the definitions of classes of insurance in Sections 101 to 120, inclusive. A certificate from the insurance regulatory authority of the nonresident’s home state may be accepted as evidence of the applicant’s license status and the capacity or capacities in which he or she is licensed. The Insurance Commissioner may also verify the producer’s licensing status through the Producer Database maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries.

(b) A nonresident producer who moves from one state to another state or a resident producer who moves from this state to another state shall file a change of address and provide certification from the new resident state within 30 days of the change of legal residence. No fee or license application is required.

(c) The license authority granted to the nonresident shall not exceed the class or classes of insurance granted by the license issued under
laws of the state, territory of the United States, or province of Canada where the resident license is maintained.

SEC. 8. Section 1647 of the Insurance Code is repealed.

SEC. 9. Section 1648 of the Insurance Code is repealed.

SEC. 10. Section 1649 of the Insurance Code is repealed.

SEC. 11. Section 1656 of the Insurance Code is amended to read:

1656. Every applicant for an organizational license shall provide the names of all persons who may exercise the power and perform the duties under the license.

SEC. 12. Section 1659 of the Insurance Code is repealed.

SEC. 13. Section 1662 of the Insurance Code is amended to read:

1662. A fire and casualty broker-agent shall, prior to acting in the capacity of an insurance broker, file and continuously maintain in force the bond required by this article. Any authority to act as broker shall automatically terminate immediately upon there being no bond in force.

SEC. 14. Section 1679 of the Insurance Code is amended to read:

1679. A nonresident applicant for a license shall be subject to the same qualifying examination as is required of a resident applicant. Such examination may be administered to an eligible nonresident applicant through the insurance authority of the state, territory of the United States, or province of Canada of his or her residence; provided, however, that the commissioner may, in his or her discretion, enter into a reciprocal arrangement with the officer having supervision of the insurance business in any other state, territory of the United States, or province of Canada whose qualification standards for the applicant to be examined are substantially the same as or in excess of those of this state, to accept, in lieu of the examination of an applicant residing therein, a certificate of such officer to the effect that the applicant is licensed in that state, territory of the United States, or province of Canada in a capacity similar to that for which a license is sought in this state and has complied with its qualification standards in respect to the following:

(a) Experience or training,

(b) Reasonable familiarity with the broad principles of insurance licensing and regulatory laws and with the provisions, terms and conditions of the insurance which the applicant proposes to transact, and

(c) A fair and general understanding of the obligations and duties of a holder of the license sought.

(d) The provisions of this section shall not apply to a nonresident applicant who resides in a jurisdiction that grants reciprocity to California residents in accordance with Section 1638.5.

SEC. 15. Section 1704 of the Insurance Code is amended to read:

1704. (a) Life agents, travel agents, and fire and casualty insurance agents shall not act as an agent of an insurer unless the insurer has filed with the commissioner a notice of appointment, executed by the insurer,
appointing the licensee as the insurer’s agent. Every fire and casualty broker-agent acting in the capacity of an insurance solicitor shall have filed on his or her behalf with the commissioner a notice executed by an insurance agent or insurance broker appointing and agreeing to employ the solicitor as an employee within this state. Additional notices of appointment may be filed by other insurers before the license is issued and thereafter as long as the license remains in force. The authority to transact insurance given to a licensee by an insurer or fire and casualty broker-agent, as the case may be, by appointment shall be effective as of the date the notice of appointment is signed. That authority to transact shall apply to transactions occurring after that date and for the purpose of determining the insurer’s or fire and casualty broker-agent’s liability for acts of the appointed licensee. No notice of appointment of a life agent, fire and casualty broker-agent, or travel insurance agent shall be filed under this subdivision unless the licensee being appointed has consented to that filing. Each appointment made under this subdivision shall by its terms continue in force until:

1. The cancellation or expiration of the license applied for or held at the time the appointment was filed.
2. The filing of a notice of termination by the insurer or employing fire and casualty broker-agent, or by the appointed life agent, fire and casualty broker-agent, travel insurance agent, or insurance solicitor.

(b) Upon the termination of all appointments, or all endorsements naming the licensee on the license of an organization licensee, and the cancellation of the bond required pursuant to Section 1662 if acting as a broker, the permanent license shall not be canceled, but shall become inactive. It may be renewed pursuant to Section 1718. It may be reactivated at any time prior to its expiration by the filing of a new appointment pursuant to this section, Section 1707, and Section 1751.3, or the filing of a new bond pursuant to Section 1662. An inactive license shall not permit its holder to transact any insurance for which a valid, active license is required.

(c) Upon the termination of all appointments of a person licensed under a certificate of convenience, such certificate shall be canceled and shall be returned by its lawful custodian to the commissioner.

(d) A fire and casualty broker-agent appointing an insurance solicitor pursuant to this section, if a natural person, must be the holder of a permanent license to act as a fire and casualty broker-agent or the holder of a certificate of convenience so to act issued pursuant to either subdivision (a) or (b) of Section 1685. If the fire and casualty broker-agent is an organization, it must be the holder of a permanent license.

(e) The filing of an incomplete or deficient action notice with the department shall require the filing of an amended, complete action
notice, together with the payment of the fee therefor specified in subdivision (n) of Section 1751.

(f) No notice of appointment appointing a solicitor shall be filed with the commissioner unless a notice of termination of appointment has been filed with the commissioner for any previously filed notice of appointment of solicitor.

SEC. 16. Section 1714 of the Insurance Code is repealed.

SEC. 17. Section 1750.5 of the Insurance Code is amended to read:

1750.5. The fee for filing an application for a nonresident license described in Section 1639, and renewal thereof or changes in outstanding licenses, shall be the same amount that is established in this code for a resident license of the same type, except that if the applicant’s state, territory of the United States, commonwealth, or Canadian province of residence has fees for any nonresident insurance license greater than for a like resident license the fee for filing an application for a nonresident license shall not be less than the amount a California resident would be required to pay to obtain a like license for a like term in the applicant’s state, territory of the United States, commonwealth, or Canadian province of residence.

The fee for filing an application for a nonresident limited lines license described in Section 1639, and renewal thereof or changes in outstanding licenses, shall be the same amount that is established in this code for a resident fire and casualty broker-agent license. This section shall not be construed to require a countersignature on a policy or contract, or the payment of a countersignature fee.

SEC. 18. Section 1765.2 of the Insurance Code is amended to read:

1765.2. (a) A license under this chapter may be issued to an individual or any legal business entity. If issued to a business entity or individual that maintains more than one surplus line office in this state, it shall name the natural person or persons located at each surplus line office maintained in this state by the licensee who is or are to be responsible for the proper discharge at each office of all duties placed upon the licensee acting as a surplus line broker or who transacts insurance with the public as distinguished from insurance producers. Each natural person shall meet all of the requirements for the license.

(b) Every application for a license filed by a corporation shall contain the names and addresses of all stockholders owning 10 percent or more of the corporation’s stock, and of all officers and directors of the corporation. Every licensed corporation shall file a written notice with the commissioner of all changes, except address changes, of its stockholders who own 10 percent or more of the corporation’s stock and of all officers and directors of the corporation.

SEC. 19. Section 1767 of the Insurance Code is amended to read:
1767. A resident surplus line broker at all times shall maintain in good faith an office in this state and if he or she maintains more than one surplus line office in this state, he or she shall designate one of them as his or her principal surplus line office in this state and shall notify the commissioner of that designation. He or she shall report to the commissioner the addresses of all surplus line offices maintained by him or her in this state and any change in location of any of those offices. A nonresident surplus line broker at all times shall maintain in good faith an office in the state or territory of the United States in which he or she is licensed as a resident surplus line broker, and if he or she maintains more than one surplus line office in that state, he or she shall designate one of them as his or her principal surplus line office in that state and shall notify the commissioner of the designation. A resident licensee shall report to the commissioner the addresses of all surplus line offices maintained in this state and any change in location of any of those offices. Nonresident licensees shall report to the commissioner the addresses of all surplus line offices maintained in the state or territory of the United States in which the resident surplus line license is maintained and any change in location of any of those offices.

SEC. 20. Section 1768 of the Insurance Code is amended to read:

1768. A resident surplus line broker shall keep in this state complete records of the business transacted by him or her with nonadmitted insurers under his or her license as a surplus line broker. A nonresident surplus line broker shall keep in the state where he or she is licensed as a resident surplus line broker complete records of the business transacted by him or her with nonadmitted insurers under his or her California nonresident surplus line broker license. After notice and hearing, the commissioner shall promulgate reasonable rules and regulations specifying the manner and type of records to be maintained by surplus line brokers and the location or locations where those records shall be kept.

SEC. 21. Section 1781.3 of the Insurance Code is amended to read:

1781.3. (a) No person, firm, association, or corporation shall act as a reinsurance intermediary-broker in this state unless licensed as follows:

(1) If the reinsurance intermediary-broker maintains an office, (either directly or as a member or employee of a firm or association, or an officer, director, or employee of a corporation) in this state, the reinsurance intermediary-broker shall be a licensed producer in this state.

(2) If the reinsurance intermediary-broker does not maintain an office in this state, the reinsurance intermediary-broker shall be a licensed producer in this state or another state having a law substantially similar
to this chapter or shall be licensed in this state as a nonresident reinsurance intermediary.

(3) Unless denied licensure pursuant to subdivision (e), a nonresident person shall receive a reinsurance intermediary-broker license if all of the following requirements are met:

(A) The person is currently licensed and in good standing in the state, territory of the United States, or province of Canada where he or she is licensed as a resident reinsurance intermediary-broker.

(B) The person has submitted the proper request for licensure and has paid the fees required by paragraph (3) of subdivision (d).

(C) The person has submitted or transmitted to the commissioner the application for licensure that the person submitted to the state, territory of the United States, or province of Canada where he or she is licensed as a resident, or submitted or transmitted to the commissioner a completed National Association of Insurance Commissioners Uniform Nonresident Application.

(D) The state, territory of the United States, or province of Canada where the person holds a resident reinsurance intermediary-broker license awards nonresident reinsurance intermediary-broker licenses to residents of this state on the same basis.

(b) No person, firm, association, or corporation shall act as a reinsurance intermediary-manager:

(1) For a reinsurer domiciled in this state, unless the reinsurance intermediary-manager is a licensed producer in this state.

(2) In this state, if the reinsurance intermediary-manager maintains an office either directly or as a member or employee of a firm or association, or as an officer, director, or employee of a corporation in this state, unless the reinsurance intermediary-manager is a licensed producer in this state.

(3) In another state for a nondomestic admitted insurer, unless the reinsurance intermediary-manager is a licensed producer in this state or in another state having a law substantially similar to this chapter or the person is licensed in this state as a nonresident reinsurance intermediary.

(4) Unless denied licensure pursuant to subdivision (e), a nonresident person shall receive a reinsurance intermediary-manager license if all of the following requirements are met:

(A) The person is currently licensed and in good standing in the state, territory of the United States, or province of Canada where he or she is licensed as a resident reinsurance intermediary-manager.

(B) The person has submitted the proper request for licensure and has paid the fees required by paragraph (3) of subdivision (d).

(C) The person has submitted or transmitted to the commissioner the application for licensure that the person submitted to the state, territory of the United States, or province of Canada where he or she is licensed as a resident, or submitted or transmitted to the commissioner a
completed National Association of Insurance Commissioners Uniform Nonresident Application.

(D) The state, territory of the United States, or province of Canada where the person holds a resident reinsurance intermediary-manager license awards nonresident reinsurance intermediary-manager licenses to residents of this state on the same basis.

(c) The commissioner may require a reinsurance intermediary-manager subject to subdivision (b) to do both of the following:

(1) File a fidelity bond issued by an admitted surety in an amount determined by the commissioner for the protection of the reinsurer.

(2) Maintain an errors and omissions policy in an amount acceptable to the commissioner.

(d) (1) The commissioner may issue a reinsurance intermediary license to any person, firm, association, or corporation that has complied with the applicable requirements of this chapter. This license, when issued to a firm or association, authorizes all the members of the firm or association and any designated employees to act as reinsurance intermediaries under the license, and all these persons shall be named in the application and any supplements thereto. This license, when issued to a corporation, authorizes all of the officers, and any designated employees and directors thereof to act as reinsurance intermediaries on behalf of the corporation, and all these persons shall be named in the application and any supplements thereto.

(2) If the applicant for a reinsurance intermediary license is a nonresident, it shall be a condition precedent to receiving or holding a license that (A) the applicant shall designate the commissioner as his or her agent for service of process in the manner, and with the same legal effect, provided for by this chapter for designation of service of process upon unauthorized insurers and (B) the applicant shall furnish the commissioner with the name and address of a resident of this state upon whom notices or orders of the commissioner or process affecting the applicant as a nonresident reinsurance intermediary may be served. A licensee subject to this paragraph shall promptly notify the commissioner in writing of every change in its designated agent for service of process, and any change shall not become effective until acknowledged by the commissioner.

(3) Any application for licensure as a reinsurance intermediary under this subdivision shall be made on a form prescribed by the commissioner and shall be accompanied by an application fee of two hundred fifty dollars ($250).

(e) The commissioner may refuse to issue a reinsurance intermediary license if, in his or her judgment, the applicant, any person named on the application, or any member, principal, officer, or director of the
applicant, is determined by the commissioner not to be trustworthy, or that any controlling person of the applicant is not trustworthy to act as a reinsurance intermediary, or that any of the foregoing has given cause for revocation or suspension of a reinsurance intermediary license, or has failed to comply with any prerequisite for the issuance of such a license. Upon written request therefor, the commissioner shall furnish the applicant with a summary of the basis for refusal to issue a reinsurance intermediary license, which document shall not be subject to inspection as a public record.

(f) Licensed attorneys at law when acting in their professional capacity as such shall be exempt from this section.

(g) A reinsurance intermediary-manager, when acting in that capacity and in compliance with this chapter, shall not be required to separately comply with Article 5.4 (commencing with Section 769.80) of Chapter 1 (if added by Senate Bill 1039 of the 1991–92 Regular Session) in order to engage in conduct authorized by both this chapter and that article.

SEC. 22. Section 10234.93 of the Insurance Code is amended to read:

10234.93. (a) Every insurer of long-term care in California shall:

1. Establish marketing procedures to assure that any comparison of policies by its agents or other producers will be fair and accurate.

2. Establish marketing procedures to assure excessive insurance is not sold or issued.

3. Submit to the commissioner within six months of the effective date of this act, a list of all agents or other insurer representatives authorized to solicit individual consumers for the sale of long-term care insurance. These submissions shall be updated at least semiannually.

4. Provide the following training and require that each agent or other insurer representative authorized to solicit individual consumers for the sale of long-term care insurance shall satisfactorily complete the following training requirements which shall be part of, and not in addition to, the continuing education requirements in Section 1749.3:

   (A) For licensees issued a license after January 1, 1992, eight hours of training in each of the first four 12-month periods beginning from the date of original license issuance and thereafter and eight hours of training prior to each license renewal.

   (B) For licensees issued a license before January 1, 1992, eight hours of training prior to each license renewal.

Licensees shall complete the initial training requirements of this section prior to being authorized to solicit individual consumers for the sale of long-term care insurance.

The training required by this section shall consist of topics related to long-term care services and long-term care insurance, including, but not limited to, California regulations and requirements, available long-term
care services and facilities, changes or improvements in services or facilities, and alternatives to the purchase of private long-term care insurance. On or before July 1, 1998, the following additional training topics shall be required: differences in eligibility for benefits and tax treatment between policies intended to be federally qualified and those not intended to be federally qualified, the effect of inflation in eroding the value of benefits and the importance of inflation protection, and NAIC consumer suitability standards and guidelines.

(5) Display prominently on page one of the policy or certificate and the outline of coverage: “Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations.”

(6) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has accident and sickness or long-term care insurance and the types and amounts of any such insurance.

(7) Every insurer or entity marketing long-term care insurance shall establish auditable procedures for verifying compliance with this subdivision.

(8) Every insurer shall provide to a prospective applicant, at the time of solicitation, written notice that the Health Insurance Counseling and Advocacy Program (HICAP) provides health insurance counseling to senior California residents free of charge. Every agent shall provide the name, address, and telephone number of the local HICAP program and the statewide HICAP number, 1-800-434-0222.

(9) Provide a copy of the long-term care insurance shoppers guide developed by the California Department of Aging to each prospective applicant prior to the presentation of an application or enrollment form for insurance.

(b) In addition to other unfair trade practices, including those identified in this code, the following acts and practices are prohibited:

(1) Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any insurance policy or to take out a policy of insurance with another insurer.

(2) High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

(3) Cold lead advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner
that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

SEC. 23. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 204

An act to amend Section 4104.5 of the Public Contract Code, relating to public contracts.

[Approved by Governor August 12, 2002. Filed with Secretary of State August 13, 2002.]

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

SECTION 1. Section 4104.5 of the Public Contract Code is amended to read:

4104.5. (a) The officer, department, board, or commission taking bids for construction of any public work or improvement shall specify in the bid invitation and public notice the place the bids of the prime contractors are to be received and the time by which they shall be received. The date and time shall be extended by no less than 72 hours if the officer, department, board, or commission issues any material changes, additions, or deletions to the invitation later than 72 hours prior to the bid closing. Any bids received after the time specified in the notice or any extension due to material changes shall be returned unopened.

(b) As used in this section, the term “material change” means a change with a substantial cost impact on the total bid as determined by the awarding agency.

(c) As used in this section, the term “bid invitation” shall include any documents issued to prime contractors that contain descriptions of the work to be bid or the content, form, or manner of submission of bids by bidders.
An act to amend Section 111 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 12, 2002. Filed with Secretary of State August 13, 2002.]

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

SECTION 1. Section 111 of the Vehicle Code is amended to read:

111. "All-terrain vehicle" means a motor vehicle subject to subdivision (a) of Section 38010 which is all of the following:
   (a) Designed for operation off of the highway by an operator with no passengers.
   (b) Fifty inches or less in width.
   (c) Nine hundred pounds or less unladen weight.
   (d) Suspended on three or more low-pressure tires.
   (e) Has a single seat designed to be straddled by the operator.
   (f) Has handlebars for steering control.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 206

An act to amend Section 2187 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 12, 2002. Filed with Secretary of State August 13, 2002.]

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

SECTION 1. Section 2187 of the Revenue and Taxation Code is amended to read:

2187. Every tax, penalty, or interest, including redemption penalty or interest, on real property is a lien against the property assessed.
An act to amend Section 8670.37.58 of the Government Code, relating to public resources.

[Approved by Governor August 12, 2002. Filed with Secretary of State August 13, 2002.]

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

SECTION 1. Section 8670.37.58 of the Government Code, as added by Section 35 of Chapter 748 of the Statutes of 2001, is amended to read:

8670.37.58. (a) A nontank vessel, required to have a contingency plan pursuant to this chapter, shall not enter marine waters of the state unless the nontank vessel owner or operator has provided to the administrator evidence of financial responsibility that demonstrates, to the administrator’s satisfaction, the ability to pay at least three hundred million dollars ($300,000,000) to cover damages caused by a spill, and the owner or operator of the nontank vessel has obtained a certificate of financial responsibility from the administrator for the nontank vessel. The administrator may charge a nontank vessel owner or operator a reasonable fee to reimburse costs to verify and process an application for evidence of financial responsibility.

(b) Notwithstanding subdivision (a), the administrator may establish a lower standard of financial responsibility for a nontank vessel that has a carrying capacity of 6,500 barrels of oil or less, or, if the nontank vessel is owned and operated by California or a federal agency, a carrying capacity of 7,500 barrels of oil or less. The standard shall be based upon the quantity of oil that can be carried by the nontank vessel and the risk of an oil spill into marine waters. The administrator shall not set a standard that is less than the expected cleanup costs and damages from an oil spill into marine waters.

(c) The administrator may adopt regulations to implement this section.

(d) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

SEC. 2. Section 8670.37.58 of the Government Code, as added by Section 36 of Chapter 748 of the Statutes of 2001, is amended to read:

8670.37.58. (a) A nontank vessel, required to have a contingency plan pursuant to this chapter, shall not enter marine waters of the state unless the nontank vessel owner or operator has provided to the administrator evidence of financial responsibility that demonstrates, to the administrator’s satisfaction, the ability to pay at least three hundred
million dollars ($300,000,000) to cover damages caused by a spill, and
the owner or operator of the nontank vessel has obtained a certificate of
financial responsibility from the administrator for the nontank vessel.
The administrator may charge a nontank vessel owner or operator a
reasonable fee to reimburse costs to verify and process an application for
evidence of financial responsibility.

(b) The administrator may adopt regulations to implement this
section.

(c) This section shall become operative on January 1, 2006.

CHAPTER 208

An act to add Section 12020.1 to the Penal Code, relating to prohibited
weapons.

[Approved by Governor August 12, 2002. Filed with
Secretary of State August 13, 2002.]

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

SECTION 1. Section 12020.1 is added to the Penal Code, to read:
12020.1. Any person in this state who commercially manufactures
or causes to be commercially manufactured, or who knowingly imports
into the state for commercial sale, keeps for commercial sale, or offers
or exposes for commercial sale, any hard plastic knuckles is guilty of a
misdemeanor. As used in this section, “hard plastic knuckles” means
any device or instrument made wholly or partially of plastic that is not
a metal knuckle as defined in paragraph (7) of subdivision (c) of Section
12020, that is worn for purposes of offense or defense in or on the hand,
and that 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 plastic contained in the device may help support
the hand or fist, provide a shield to protect it, or consist of projections
or studs that would contact the individual receiving a blow.

SEC. 2. No reimbursement is required by this act pursuant to
Section 6 of Article XIII B of the California Constitution because the
only costs that may be incurred by a local agency or school district will
be incurred because this act creates a new crime or infraction, eliminates
a crime or infraction, or changes the penalty for a crime or infraction,
within the meaning of Section 17556 of the Government Code, or
changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 209

An act to amend Section 47605 of the Education Code, relating to charter schools.

[Approved by Governor August 12, 2002. Filed with Secretary of State August 13, 2002.]

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

SECTION 1. Section 47605 of the Education Code is amended to read:

47605. (a) (1) Except as set forth in paragraph (2), a petition for the establishment of a charter school within any school district may be circulated by any one or more persons seeking to establish the charter school. The petition may be submitted to the governing board of the school district for review after either of the following conditions are met:

(A) The petition has been signed by a number of parents or guardians of pupils that is equivalent to at least one-half of the number of pupils that the charter school estimates will enroll in the school for its first year of operation.

(B) The petition has been signed by a number of teachers that is equivalent to at least one-half of the number of teachers that the charter school estimates will be employed at the school during its first year of operation.

(2) In the case of a petition for the establishment of a charter school through the conversion of an existing public school, that would not be eligible for a loan pursuant to subdivision (b) of Section 41365, the petition may be circulated by any one or more persons seeking to establish the converted charter school. The petition may be submitted to the governing board of the school district for review after the petition has been signed by not less than 50 percent of the permanent status teachers currently employed at the public school to be converted.

(3) A petition shall include a prominent statement that a signature on the petition means that the parent or guardian is meaningfully interested in having his or her child, or ward, attend the charter school, or in the case of a teacher’s signature, means that the teacher is meaningfully interested in teaching at the charter school. The proposed charter shall be attached to the petition.
(b) No later than 30 days after receiving a petition, in accordance with subdivision (a), the governing board of the school district shall hold a public hearing on the provisions of the charter, at which time the governing board of the school district shall consider the level of support for the petition by teachers employed by the district, other employees of the district, and parents. Following review of the petition and the public hearing, the governing board of the school district shall either grant or deny the charter within 60 days of receipt of the petition, provided, however, that the date may be extended by an additional 30 days if both parties agree to the extension. In reviewing petitions for the establishment of charter schools pursuant to this section, the chartering authority shall be guided by the intent of the Legislature that charter schools are and should become an integral part of the California educational system and that establishment of charter schools should be encouraged. A school district governing board shall grant a charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice. The governing board of the school district shall not deny a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the following findings:

1. The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.
2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
3. The petition does not contain the number of signatures required by subdivision (a).
4. The petition does not contain an affirmation of each of the conditions described in subdivision (d).
5. The petition does not contain reasonably comprehensive descriptions of all of the following:
   A. A description of the educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an “educated person” in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.
   B. The measurable pupil outcomes identified for use by the charter school. “Pupil outcomes,” for purposes of this part, means the extent to which all pupils of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school’s educational program.
   C. The method by which pupil progress in meeting those pupil outcomes is to be measured.
(D) The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement.

(E) The qualifications to be met by individuals to be employed by the school.

(F) The procedures that the school will follow to ensure the health and safety of pupils and staff. These procedures shall include the requirement that each employee of the school furnish the school with a criminal record summary as described in Section 44237.

(G) The means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.

(H) Admission requirements, if applicable.

(I) The manner in which annual, independent, financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority.

(J) The procedures by which pupils can be suspended or expelled.

(K) The manner by which staff members of the charter schools will be covered by the State Teachers’ Retirement System, the Public Employees’ Retirement System, or federal social security.

(L) The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools.

(M) A description of the rights of any employee of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school.

(N) The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter.

(O) A declaration whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for the purposes of the Educational Employment Relations Act (Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code).

(c) (1) Charter schools shall meet all statewide standards and conduct the pupil assessments required pursuant to Section 60605 and any other statewide standards authorized in statute or pupil assessments applicable to pupils in noncharter public schools.

(2) Charter schools shall on a regular basis consult with their parents and teachers regarding the school’s educational programs.

(d) (1) In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admission
policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any pupil on the basis of ethnicity, national origin, gender, or disability. Except as provided in paragraph (2), admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or guardian, within this state, except that any existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school.

(2) (A) A charter school shall admit all pupils who wish to attend the school.

(B) However, if the number of pupils who wish to attend the charter school exceeds the school's capacity, attendance, except for existing pupils of the charter school, shall be determined by a public random drawing. Preference shall be extended to pupils currently attending the charter school and pupils who reside in the district except as provided for in Section 47614.5. Other preferences may be permitted by the chartering authority on an individual school basis and only if consistent with the law.

(C) In the event of a drawing, the chartering authority shall make reasonable efforts to accommodate the growth of the charter school and, in no event, shall take any action to impede the charter school from expanding enrollment to meet pupil demand.

(e) No governing board of a school district shall require any employee of the school district to be employed in a charter school.

(f) No governing board of a school district shall require any pupil enrolled in the school district to attend a charter school.

(g) The governing board of a school district shall require that the petitioner or petitioners provide information regarding the proposed operation and potential effects of the school, including, but not limited to, the facilities to be utilized by the school, the manner in which administrative services of the school are to be provided, and potential civil liability effects, if any, upon the school and upon the school district. The petitioner or petitioners shall also be required to provide financial statements that include a proposed first-year operational budget, including startup costs, and cashflow and financial projections for the first three years of operation.

(h) In reviewing petitions for the establishment of charter schools within the school district, the school district governing board shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to pupils identified by the petitioner or petitioners as academically low achieving pursuant to the standards established by the State Department of Education under Section 54032.
(i) Upon the approval of the petition by the governing board of the school district, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition, to the State Board of Education.

(j) (1) If the governing board of a school district denies a petition, the petitioner may elect to submit the petition for the establishment of a charter school to either the county board of education or directly to the State Board of Education. The county board of education or the State Board of Education, as the case may be, shall review the petition pursuant to subdivision (b). If the petitioner elects to submit a petition for establishment of a charter school to the county board of education and the county board of education denies the petition, the petitioner may file a petition for establishment of a charter school with the State Board of Education.

(2) In assuming its role as a chartering agency, the State Board of Education shall develop criteria to be used for the review and approval of charter school petitions presented to the State Board of Education. The criteria shall address all elements required for charter approval, as identified in subdivision (b) of Section 47605 and shall define “reasonably comprehensive” as used in paragraph (5) of subdivision (b) of Section 47605 in a way that is consistent with the intent of the Charter Schools Act of 1992. Upon satisfactory completion of the criteria, the State Board of Education shall adopt the criteria on or before June 30, 2001.

(3) A charter school for which a charter is granted by either the county board of education or the State Board of Education pursuant to this subdivision shall qualify fully as a charter school for all funding and other purposes of this part.

(4) If either the county board of education or the State Board of Education fails to act on a petition within 120 days of receipt, the decision of the governing board of the school district, to deny a petition shall, thereafter, be subject to judicial review.

(5) The State Board of Education shall adopt regulations implementing this subdivision.

(6) Upon the approval of the petition by the county board of education, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition to the State Board of Education.

(k) (1) The State Board of Education may, by mutual agreement, designate its supervisory and oversight responsibilities for a charter school approved by the State Board of Education to any local education agency in the county in which the charter school is located or to the governing board of the school district that first denied the petition.
(2) The designated local education agency shall have all monitoring and supervising authority of a chartering agency, including, but not limited to, powers and duties set forth in Section 47607, except the power of revocation, which shall remain with the State Board of Education.

(3) A charter school that has been granted its charter by the State Board of Education and elects to seek renewal of its charter shall, prior to expiration of the charter, submit its petition for renewal to the governing board of the school district that initially denied the charter. If the governing board of the school district denies the school’s petition for renewal, the school may petition the State Board of Education for renewal of its charter.

(l) Teachers in charter schools shall be required to hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold. These documents shall be maintained on file at the charter school and shall be subject to periodic inspection by the chartering authority. It is the intent of the Legislature that charter schools be given flexibility with regard to noncore, noncollege preparatory courses.

(m) A charter school shall transmit a copy of its annual, independent, financial audit report for the preceding fiscal year, as described in subparagraph (I) of paragraph (5) of subdivision (b), to its chartering entity, the Controller, the county superintendent of schools of the county in which the charter school is sited unless the county board of education of the county in which the charter school is sited is the chartering entity, and the State Department of Education by December 15 of each year. This subdivision shall not apply if the audit of the charter school is encompassed in the audit of the chartering entity pursuant to Section 41020.

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

SECTION 1. Section 132.5 of the Penal Code, as added by Chapter 869 of the Statutes of 1994, is amended to read:

132.5. (a) A person who is a witness to an event or occurrence that he or she knows, or reasonably should know, is a crime or who has personal knowledge of facts that he or she knows, or reasonably should know, may require that person to be called as a witness in a criminal prosecution shall not accept or receive, directly or indirectly, any payment or benefit in consideration for providing information obtained as result of witnessing the event or occurrence or having personal knowledge of the facts.

(b) A violation of this section is a misdemeanor and shall be punished by imprisonment in a county jail for not exceeding six months, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(c) Upon conviction under this section, in addition to the penalty described in subdivision (b), any compensation received in violation of this section shall be forfeited by the defendant and deposited in the Victim Restitution Fund.

(d) This section shall not apply if more than one year has elapsed from the date of any criminal act related to the information that is provided under subdivision (a) unless prosecution has commenced for that criminal act. If prosecution has commenced, this section shall remain applicable until the final judgment in the action.

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

(1) Lawful compensation paid to expert witnesses, investigators, employees, or agents by a prosecutor, law enforcement agency, or an attorney employed to represent a person in a criminal matter.

(2) Lawful compensation provided to an informant by a prosecutor or law enforcement agency.

(3) Compensation paid to a publisher, editor, reporter, writer, or other person connected with or employed by a newspaper, magazine, or other publication or a television or radio news reporter or other person connected with a television or radio station, for disclosing information obtained in the ordinary course of business.
(4) Statutorily authorized rewards offered by governmental agencies for information leading to the arrest and conviction of specified offenders.

(5) Lawful compensation provided to a witness participating in the Witness Protection Program established pursuant to Title 7.5 (commencing with Section 14020) of Part 4.

(f) For purposes of this section, “information” does not include a photograph, videotape, audiotape, or any other direct recording of events or occurrences.

SEC. 2. Section 132.5 of the Penal Code, as amended by Section 1 of Chapter 53 of the Statutes of 1995, is amended to read:

132.5. (a) The Legislature supports and affirms the constitutional right of every person to communicate on any subject. This section is intended to preserve the right of every accused person to a fair trial, the right of the people to due process of law, and the integrity of judicial proceedings. This section is not intended to prevent any person from disseminating any information or opinion.

The Legislature hereby finds and declares that the disclosure for valuable consideration of information relating to crimes by prospective witnesses can cause the loss of credible evidence in criminal trials and threatens to erode the reliability of verdicts.

The Legislature further finds and declares that the disclosure for valuable consideration of information relating to crimes by prospective witnesses creates an appearance of injustice that is destructive of public confidence.

(b) A person who is a witness to an event or occurrence that he or she knows is a crime or who has personal knowledge of facts that he or she knows or reasonably should know may require that person to be called as a witness in a criminal prosecution shall not accept or receive, directly or indirectly, any money or its equivalent in consideration for providing information obtained as result of witnessing the event or occurrence or having personal knowledge of the facts.

(c) Any person who is a witness to an event or occurrence that he or she reasonably should know is a crime shall not accept or receive, directly or indirectly, any money or its equivalent in consideration for providing information obtained as a result of his or her witnessing the event or occurrence.

(d) The Attorney General or the district attorney of the county in which an alleged violation of subdivision (c) occurs may institute a civil proceeding. Where a final judgment is rendered in the civil proceeding, the defendant shall be punished for the violation of subdivision (c) by a fine equal to 150 percent of the amount received or contracted for by the person.
(e) A violation of subdivision (b) is a misdemeanor punishable by imprisonment for a term not exceeding six months in a county jail, a fine not exceeding three times the amount of compensation requested, accepted, or received, or both the imprisonment and fine.

(f) This section does not apply if more than one year has elapsed from the date of any criminal act related to the information that is provided under subdivision (b) or (c) unless prosecution has commenced for that criminal act. If prosecution has commenced, this section shall remain applicable until the final judgment in the action.

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

(1) Lawful compensation paid to expert witnesses, investigators, employees, or agents by a prosecutor, law enforcement agency, or an attorney employed to represent a person in a criminal matter.

(2) Lawful compensation provided to an informant by a prosecutor or law enforcement agency.

(3) Compensation paid to a publisher, editor, reporter, writer, or other person connected with or employed by a newspaper, magazine, or other publication or a television or radio news reporter or other person connected with a television or radio station, for disclosing information obtained in the ordinary course of business.

(4) Statutorily authorized rewards offered by governmental agencies or private reward programs offered by victims of crimes for information leading to the arrest and conviction of specified offenders.

(5) Lawful compensation provided to a witness participating in the Witness Protection Program established pursuant to Title 7.5 (commencing with Section 14020) of Part 4.

(h) For purposes of this section, “information” does not include a photograph, videotape, audiotape, or any other direct recording of an event or occurrence.

(i) For purposes of this section, “victims of crimes” shall be construed in a manner consistent with Section 28 of Article I of the California Constitution, and shall include victims, as defined in subdivision (3) of Section 136.

SEC. 3. Section 14021 of the Penal Code is amended to read:

14021. As used in this title:

(a) “Witness” means any person who has been summoned, or is reasonably expected to be summoned, to testify in a criminal matter, including grand jury proceedings, for the people whether or not formal legal proceedings have been filed. Active or passive participation in the criminal matter does not disqualify an individual from being a witness. “Witness” may also apply to family, friends, or associates of the witness who are deemed by local or state prosecutors to be endangered.

(b) “Credible evidence” means evidence leading a reasonable person to believe that substantial reliability should be attached to the evidence.
(c) “Protection” means formal admission into a witness protection program established by this title memorialized by a written agreement between local or state prosecutors and the witness.

SEC. 4. Section 14022 of the Penal Code is amended to read:

14022. The program shall be administered by the Attorney General. In any criminal proceeding within this state, when the action is brought by local or state prosecutors, where credible evidence exists of a substantial danger that a witness may suffer intimidation or retaliatory violence, the Attorney General may reimburse state and local agencies for the costs of providing witness protection services.

SEC. 5. Section 14025 of the Penal Code is amended to read:

14025. The witness protection agreement shall be in writing, and shall specify the responsibilities of the protected person that establish the conditions for local or state prosecutors providing protection. The protected person shall agree to all of the following:

(a) If a witness or potential witness, to testify in and provide information to all appropriate law enforcement officials concerning all appropriate proceedings.

(b) To refrain from committing any crime.

(c) To take all necessary steps to avoid detection by others of the facts concerning the protection provided to that person under this title.

(d) To comply with legal obligations and civil judgments against that person.

(e) To cooperate with all reasonable requests of officers and employees of this state who are providing protection under this title.

(f) To designate another person to act as agent for the service of process.

(g) To make a sworn statement of all outstanding legal obligations, including obligations concerning child custody and visitation.

(h) To disclose any probation or parole responsibilities, and if the person is on probation or parole.

(i) To regularly inform the appropriate program official of his or her activities and current address.

SEC. 6. Section 14025.5 of the Penal Code is amended to read:

14025.5. The State of California, the counties and cities within the state, and their respective officers and employees shall not be liable for any condition in the witness protection agreement that cannot reasonably be met due to a witness committing a crime during participation in the program.

SEC. 7. Section 14026.5 of the Penal Code is amended to read:

14026.5. For the purposes of this title, notwithstanding Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code, a witness, as defined in subdivision (a) of Section 14021, selected by local or state prosecutors to receive
services under the program established pursuant to this title because he or she has been or may be victimized due to the testimony he or she will give, shall be deemed a victim.

CHAPTER 211


[Approved by Governor August 13, 2002. Filed with Secretary of State August 14, 2002.]

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

SECTION 1. Section 84203 of the Government Code is amended to read:

84203. (a) Each candidate or committee that makes or receives a late contribution, as defined in Section 82036, shall report the late contribution to each office with which the candidate or committee is required to file its next campaign statement pursuant to Section 84215. The candidate or committee that makes the late contribution shall report his or her full name and street address and the full name and street address of the person to whom the late contribution has been made, the office sought if the recipient is a candidate, or the ballot measure number or letter if the recipient is a committee primarily formed to support or oppose a ballot measure, and the date and amount of the late contribution. The recipient of the late contribution shall report his or her full name and street address, the date and amount of the late contribution, and whether the contribution was made in the form of a loan. The recipient shall also report the full name of the contributor, his or her street address, occupation, and the name of his or her employer, or if self-employed, the name of the business.

(b) A late contribution shall be reported by facsimile transmission, telegram, guaranteed overnight mail through the United States Postal Service, or personal delivery within 24 hours of the time it is made in the case of the candidate or committee that makes the contribution and within 24 hours of the time it is received in the case of the recipient. A late contribution shall be reported on subsequent campaign statements without regard to reports filed pursuant to this section.

(c) A late contribution need not be reported nor shall it be deemed accepted if it is not cashed, negotiated, or deposited and is returned to the contributor within 24 hours of its receipt.
(d) A report filed pursuant to this section shall be in addition to any other campaign statement required to be filed by this chapter.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 3. The Legislature finds and declares that this bill furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 212


[Approved by Governor August 13, 2002. Filed with Secretary of State August 14, 2002.]

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

SECTION 1. Section 85319 of the Government Code is amended to read:

85319. A candidate for state elective office may return all or part of any contribution to the donor who made the contribution at any time, whether or not other contributions are returned, except a contribution that the candidate made for state elective office to his or her own controlled committee.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.
SEC. 3. The Legislature finds and declares that this bill furthers the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 213

An act to amend Section 9088 of the Elections Code, relating to state elections.

[Approved by Governor August 13, 2002. Filed with Secretary of State August 14, 2002.]

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

SECTION 1. Section 9088 of the Elections Code is amended to read:

9088. (a) At each statewide election at which state bond measures will be submitted to the voters for their approval or rejection, the ballot pamphlet for that election shall include a discussion, prepared by the Legislative Analyst, of the state’s current bonded indebtedness situation.

(b) This discussion shall include information as to the dollar amount of the state’s current authorized and outstanding bonded indebtedness, the approximate percentage of the state’s General Fund revenues which are required to service this indebtedness, and the expected impact of the issuance of the bonds to be approved at the election on the items specified in this subdivision. In cases where a bond measure allocates funds for programs, the discussion shall also include, to the extent practicable, the proportionate share of funds for each major program funded by the measure.

(c) The discussion required by this section shall appear on a separate page in the ballot pamphlet immediately following the rebuttal to the argument against the last ballot measure included in the ballot pamphlet.

CHAPTER 214

An act to amend Sections 95.35, 254.5, 257, 270, 271, and 465 of, and to add Section 327.1 to, the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor August 13, 2002. Filed with Secretary of State August 14, 2002.]
The people of the State of California do enact as follows:

SECTION 1. Section 95.35 of the Revenue and Taxation Code is amended to read:

95.35. (a) The Legislature finds and declares that there is a significant and compelling state financial interest in the maintenance of an adequately funded system of property tax administration. This financial interest derives from the fact that 53 percent of all property tax revenues collected statewide serve to offset the General Fund obligation to fund K–12 schools, and extends not only to assessment and maintenance of the tax rolls, but also to all aspects of the system which include, but are not limited to, collection, apportionment, allocation, and processing and defending appeals. The Legislature further finds and declares that the combination of limitations on county revenue authority, increasing county financial obligations, and the shift of county property taxes to schools has created a financial disincentive for counties to adequately fund property tax administration. This disincentive is most clearly evidenced by the fact that counties, on average, receive 19 percent of statewide property tax revenues while they are obligated to pay an average of 73 percent of the costs of administration. The Legislature also finds and declares that the State-County Property Tax Loan Program contained in Section 95.31 was in recognition of the state’s financial interest, and the success of that program has demonstrated the appropriateness of an ongoing commitment of state funds to reduce the burden of property tax administration on county finances. Therefore, it is the intent of the Legislature, in enacting this act, to establish a grant program known as the State-County Property Tax Administration Grant Program that will continue the success of the State-County Property Tax Loan Program and maintain the commitment to efficient property tax administration.

(b) Notwithstanding any other provision of law, in the 2002–03 fiscal year and each fiscal year thereafter to the 2006–07 fiscal year, inclusive, any county board of supervisors may, upon the recommendation of the assessor, adopt a resolution to elect to participate in the State-County Property Tax Administration Grant Program. Any resolution so adopted shall comply with the terms and conditions contained in paragraph (2) of subdivision (c). If adopted, a copy of the resolution shall be sent to the Department of Finance, which shall, upon approval, transmit a copy of the resolution to the Controller.

(c) (1) Any county electing to participate in this program may be qualified to receive a grant in an amount, up to and including, the applicable amount listed in paragraph (3). However, the grant eligibility of a county may be terminated at the discretion of the Department of
Finance if a county does not meet the conditions specified in paragraph (4).

(2) The resolution to participate in this program shall include a detailed listing of the proposed uses by the county of the grant moneys, including, but not limited to:

(A) The proposed positions to be funded.
(B) Any increased automation costs.
(C) The specific tasks and functions that will be performed during the fiscal year with these funds.

(3) Upon transmittal of the electing resolution by the Department of Finance, the Controller shall, provided sufficient moneys have been appropriated by the Legislature for purposes of this section, provide a grant to the electing county for the applicable amount specified in the following schedule:

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
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(4) The Department of Finance shall consider the following items in determining whether a county may continue to receive a grant under this section:

(A) The county’s performance as indicated by the State Board of Equalization’s sample survey required by Section 15640 of the Government Code.

(B) Any performance measures adopted by the California Assessors’ Association, the California Association of Clerks and Elections

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<th>County</th>
<th>Population</th>
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</table>
 Officials, the State Association of County Auditor-Controllers, and the California Association of County Treasurers and Tax Collectors.

(C) The county’s reduction of backlogs of assessment appeals and declines in taxable value below adjusted base year value.

(D) The county’s compliance with mandatory audits required by Section 469 or the county’s delivery of tax bills as required by Section 2610.5.

(E) The county’s reduction of backlogs of determinations regarding new construction, changes in ownership, and supplemental assessments.

(F) Any other measure, as determined by the Director of Finance and transmitted to a county prior to its receiving a grant.

(d) (1) Funds appropriated for purposes of this section shall be used to enhance the property tax administration system. Amounts provided to any county as a grant pursuant to this section may not be used to supplant the current level of county funding for property tax administration, exclusive of funds received pursuant to the predecessor State-County Property Tax Loan Program. In order to participate in the State-County Property Tax Administration Grant Program, a participating county shall maintain a base staffing, including contract staff, and total funding level in the county assessor’s office, independent of the grant proceeds provided pursuant to this section, equal to the levels in the 1994–95 fiscal year, exclusive of amounts provided to the assessor’s office pursuant to Item 9100-102-001 of the Budget Act of 1994. However, in a county in which the 1994–95 fiscal year funding level for the assessor’s office was higher than the 1993–94 fiscal year level, the 1993–94 fiscal year staffing and funding levels shall be considered the base year for purposes of this section. If a county was otherwise eligible but was unable to participate in the State-County Property Tax Loan Program in the 1995–96 fiscal year because it did not meet the funding level and staffing requirements of this paragraph, that county shall maintain a base staffing, including contract staff, and total funding level in the county assessor’s office equal to the levels in the 1995–96 fiscal year.

(2) Prior to the assessor’s recommendation for participation in the State-County Property Tax Administration Grant Program, the assessor shall consult with the county tax collector, and any other county agency directly involved in property tax administration, to develop an identifiable plan for the use of these funds during the period specified in the resolution by the board of supervisors. This plan shall be subject to modification and approval of the board of supervisors.

(e) In any fiscal year in which the assessor of a county elects not to participate in the grant program or submits to the board of supervisors a grant proposal that is less than the applicable amount specified in paragraph (3) of subdivision (c), any other department of that county that
is responsible for the administration, allocation, or adjudication of property tax, as defined in Section 95.3, may submit to the board of supervisors an application for the remainder of the allowable grant amount set forth in paragraph (3) of subdivision (c). Any grant proposal submitted pursuant to this subdivision shall include the information specified in paragraph (2) of subdivision (c), and will be subject to the performance standards set forth in paragraph (4) of subdivision (c).

(f) If the funds appropriated by any Budget Act for the purposes set forth in this section exceed sixty million dollars ($60,000,000), the excess shall be allocated among participating counties in proportion to each county’s applicable grant share listed in the schedule set forth in paragraph (3) of subdivision (c). Any additional funds allocated pursuant to this subdivision shall be transferred by the Controller to the boards of supervisors of participating counties at the same time as the transfer of funds pursuant to paragraph (3) of subdivision (c), and the funds transferred shall be available for allocation by the board of supervisors within the county only for the purposes of administration, allocation, or adjudication of property taxes, as defined in Section 95.3. Any county receiving funds pursuant to this subdivision shall be required to comply with the same reporting requirements as those required for grant funds received pursuant to subdivision (c).

(g) A participating county may establish a tracking system whereby a work or function number is assigned to each appraisal or administrative activity. This tracking system should provide statistical data on the number of production units performed by the county and the positive and negative change in assessed value attributable to the activities performed by each employee.

(h) At the request of the Department of Finance, the State Board of Equalization shall assist the Department of Finance in evaluating grants made pursuant to this section.

(i) Notwithstanding Section 95.3, any funds provided to an eligible county pursuant to this section shall not result in any reduction of those county property tax administrative costs that are reimbursable pursuant to Section 95.3.

SEC. 2. Section 254.5 of the Revenue and Taxation Code is amended to read:

254.5. (a) Affidavits for the welfare exemption and the veterans’ organization exemption shall be filed in duplicate on or before February 15 of each year with the assessor. Affidavits of organizations filing for the first time shall be accompanied by duplicate certified copies of the financial statements of the owner and operator. Thereafter, financial statements shall be submitted only if requested in writing by either the assessor or the board. Copies of the affidavits and financial statements shall be forwarded not later than April 1 by the assessor with his or her
recommendations for approval or denial to the board which shall review all the affidavits and statements and may institute an independent audit or verification of the operations of the owner and operator to ascertain whether both the owner and operator meet the requirements of Section 214 of the Revenue and Taxation Code. In this connection the board shall consider, among other matters, whether:

1. The services and expenses of the owner or operator (including salaries) are excessive, based upon like services and salaries in comparable public institutions.

2. The operations of the owner or operator, either directly or indirectly, materially enhance the private gain of any individual or individuals.

3. Any capital investment of the owner or operator for expansion of a physical plant is justified by the contemplated return thereon, and required to serve the interests of the community.

4. The property on which the exemption is claimed is used for the actual operation of an exempt activity and does not exceed an amount of property reasonably necessary to the accomplishment of the exempt purpose.

(b) The board shall make a finding as to the eligibility of each applicant and the applicant’s property and shall forward its finding to the assessor concerned. If the board conducts a hearing with respect to the eligibility of the applicant and the applicant’s property, the finding shall be forwarded to the assessor concerned within 30 days after the decision is made by the board following the hearing. The assessor may deny the claim of an applicant that the board finds eligible, but may not grant the claim of an applicant the board finds ineligible.

(c) Notwithstanding subdivision (a), an applicant, granted a welfare exemption and owning any property exempted pursuant to Section 214.15 or Section 231, shall not be required to reapply for the welfare exemption in any subsequent year in which there has been no transfer of, or other change in title to, the exempted property and the property is used exclusively by a governmental entity or by a nonprofit corporation described in Section 214.15 for its interest and benefit. The applicant shall notify the assessor on or before February 15 if, on or before the preceding lien date, the applicant became ineligible for the welfare exemption or if, on or before that lien date, the property was no longer owned by the applicant or otherwise failed to meet all requirements for the welfare exemption.

Prior to the lien date, the assessor shall annually mail a notice to every applicant relieved of the requirement of filing an annual application by this subdivision.

The notice shall be in a form and contain that information that the board may prescribe, and shall set forth the circumstances under which
the property may no longer be eligible for exemption, and advise the applicant of the duty to inform the assessor if the property is no longer eligible for exemption.

The notice shall include a card that is to be returned to the assessor by any applicant desiring to maintain eligibility for the welfare exemption under Section 214.15 or Section 231. The card shall be in the following form:

To all persons who have received a welfare exemption under Section 214.15 or Section 231 of the Revenue and Taxation Code for the ____ fiscal year.

Question: Will the property to which the exemption applies in the ____ fiscal year continue to be used exclusively by government or by an organization as described in Section 214.15 for its interest and benefit in the ____ fiscal year?

YES ___ NO ___

Signature: ____________
Title: ______________

Failure to return this card does not of itself constitute a waiver of exemption as called for by the California Constitution, but may result in onsite inspection to verify exempt activity.

(d) Upon any indication that a welfare exemption has been incorrectly granted, the assessor shall redetermine eligibility for the exemption. If the assessor determines that the property, or any portion thereof, is no longer eligible for the exemption, he or she shall immediately cancel the exemption on so much of the property as is no longer eligible for the exemption.

(e) If a welfare exemption has been incorrectly allowed, an escape assessment as provided by Article 4 (commencing with Section 531) of Chapter 3 in the amount of the exemption, with interest as provided in Section 506, shall be made, and a penalty shall be assessed for any failure to notify the assessor as required by this section in an amount equaling 10 percent of the escape assessment, but may not exceed two hundred fifty dollars ($250).

SEC. 3. Section 257 of the Revenue and Taxation Code is amended to read:

257. (a) Any person claiming the religious exemption shall submit to the assessor an affidavit giving specific information relating to property tax exemption.

(b) The affidavit shall show that:
(1) The building, equipment, and land are used exclusively for religious purposes.

(2) The land claimed as exempt is required for the convenient use of the building.

(3) The property is owned by an entity organized and operating exclusively for religious purposes.

(4) The entity is nonprofit.

(5) No part of the net earnings inures to the benefit of any private individual.

(c) Any exemption granted pursuant to a claim filed in accordance with this section, once granted, shall remain in effect until that time that title to the property changes or the property is no longer used for exempt purposes. Any person who is granted an exemption pursuant to a claim filed in accordance with this section shall notify the assessor by February 15 if the property becomes ineligible for the exemption.

(d) Upon any indication that a religious exemption has been incorrectly allowed, the assessor shall make a redetermination of eligibility for the religious exemption. If the assessor determines that the property or any portion thereof is no longer eligible for the exemption, he or she shall immediately cancel the exemption on so much of the property as is no longer eligible for exemption.

If a religious exemption has been incorrectly allowed, an escape assessment as allowed by Article 4 (commencing with Section 531) of Chapter 3 in the amount of the exemption with interest as provided in Section 506 shall be made, together with a penalty for failure to notify the assessor, where applicable, in the amount of 10 percent of the assessment, but may not exceed two hundred fifty dollars ($250) in tax liability.

SEC. 4. Section 270 of the Revenue and Taxation Code is amended to read:

270. (a) With respect to property as to which the college, cemetery, church, religious, exhibition, veterans’ organization, free public libraries, free museums, aircraft of historical significance, public schools, community colleges, state colleges, state universities or welfare exemption was available, but for which a timely application for exemption was not filed:

(1) Ninety percent of any tax or penalty or interest thereon shall be canceled or refunded, provided that an appropriate application for exemption is filed on or before the lien date in the calendar year next succeeding the calendar year in which the exemption was not claimed by a timely application.

(2) If the application is filed after the date specified in paragraph (1), 85 percent of any tax, penalty, or interest thereon shall be canceled or
refunded, provided that an appropriate application for exemption is filed and relief is not authorized under Section 214.01 or 271.

(b) Notwithstanding the provisions of subdivision (a), any tax, penalty, or interest thereon exceeding two hundred fifty dollars ($250) in total amount shall be canceled or refunded, provided that it is imposed upon property entitled to relief under subdivision (a) for which an appropriate claim for exemption has been filed.

(c) With respect to property as to which the welfare exemption or veterans’ organization exemption was available, all provisions of Section 254.5, other than the specified dates for the filing of affidavits and other acts, are applicable to this section.

SEC. 5. Section 271 of the Revenue and Taxation Code is amended to read:

271. (a) Provided that an appropriate application for exemption is filed within 90 days from the first day of the next month following the date on which the property was acquired, any tax or penalty or interest imposed upon:

(1) Property owned by any organization qualified for the college, cemetery, church, religious, exhibition, veterans’ organization, or welfare exemption that is acquired by that organization during a given calendar year, after the lien date but prior to the first day of the fiscal year commencing within that calendar year, when the property is of a kind that would have been qualified for the college, cemetery, church, religious, exhibition, veterans’ organization, or welfare exemption if it had been owned by the organization on the lien date, shall be canceled or refunded.

(2) Property owned by any organization that would have qualified for the college, cemetery, church, religious, exhibition, veterans’ organization, or welfare exemption had the organization been in existence on the lien date, that was acquired by it during that calendar year after the lien date in that year but prior to the commencement of that fiscal year, and of a kind that presently qualifies for the exemption and that would have so qualified for that fiscal year had it been owned by the organization on the lien date and had the organization been in existence on the lien date, shall be canceled or refunded.

(3) Property acquired after the beginning of any fiscal year by an organization qualified for the college, cemetery, church, religious, exhibition, veterans’ organization, or welfare exemption and the property is of a kind that would have qualified for an exemption if it had been owned by the organization on the lien date, whether or not that organization was in existence on the lien date, shall be canceled or refunded in the proportion that the number of days for which the property was so qualified during the fiscal year bears to 365.
(b) Eighty-five percent of any tax or penalty or interest thereon imposed upon property that would be entitled to relief under subdivision (a) or Section 214.01, except that an appropriate application for exemption was not filed within the time required by the applicable provision, shall be canceled or refunded provided that an appropriate application for exemption is filed after the last day on which relief could be granted under subdivision (a) or Section 214.01.

(c) Notwithstanding subdivision (b), any tax or penalty or interest thereon exceeding two hundred fifty dollars ($250) in total amount shall be canceled or refunded provided it is imposed upon property entitled to relief under subdivision (b) for which an appropriate claim for exemption has been filed.

(d) With respect to property acquired after the beginning of the fiscal year for which relief is sought, subdivisions (b) and (c) shall apply only to that pro rata portion of any tax or penalty or interest thereon which would have been canceled or refunded had the property qualified for relief under paragraph (3) of subdivision (a).

SEC. 6. Section 327.1 is added to the Revenue and Taxation Code, to read:

327.1. The board of supervisors of any county may enact, by a majority vote of its membership, an ordinance that requires any party that records a digital subdivision map with the county recorder to also file a duplicate digital copy of that map with the county assessor.

SEC. 7. Section 465 of the Revenue and Taxation Code is amended to read:

465. (a) Except as provided in subdivision (b), the assessor may destroy any document when six years have elapsed since the lien date for the tax year for which that document was obtained. Documents may be destroyed when three years have elapsed since the lien date described in the preceding sentence, if the documents have been microfilmed, microfiched, imaged, or otherwise preserved on a medium that provides access to the documents.

(b) Affidavits claiming an exemption, for the first time, pursuant to Sections 254.5, 257, and 277 may be destroyed by the assessor as follows:

(1) Six years after the lien date of the tax year for which the exemption was last granted.

(2) Three years after the lien date described in paragraph (1) if the documents have been microfilmed, microfiched, imaged, or otherwise preserved on a medium that provides access to the documents.
An act to amend Sections 100825, 100837, 100840, 100845, 100847, 100850, 100852, 100855, 100865, 100870, 100885, 100895, and 100915 of the Health and Safety Code, relating to laboratory services.

[Approved by Governor August 13, 2002. Filed with Secretary of State August 14, 2002.]

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

SECTION 1. Section 100825 of the Health and Safety Code is amended to read:

100825. (a) Laboratories that perform, for regulatory purposes, analyses of drinking water, wastewater, air, hazardous wastes, and contaminated soils or sediments, or any combination of these, shall obtain a certificate pursuant to this article. Laboratories that perform analyses for pesticide residues in food pursuant to Section 110490 shall also obtain a certificate pursuant to this article. A laboratory may apply for NELAP accreditation in lieu of certification under this article if it chooses to meet NELAC standards for those fields of testing under Section 100862 that are in common with the two programs. Laboratories meeting the requirements of NELAP accreditation pursuant to this article shall become eligible for recognition by other states and agencies that require or accept NELAP accreditation.

(b) In any arrangement between laboratories that involves the transfer of samples or portions of samples, the analyzing laboratory shall be identified in all sample reports and shall be the laboratory for purposes of certification or NELAP accreditation.

(c) The following definitions apply for the purposes of this article:

(1) “Accreditation” means the recognition of a laboratory that is approved by a NELAP approved accrediting authority to conduct environmental analyses in those fields of testing specifically designated in Section 100862.

(2) “Approved third-party laboratory assessor body” means an organization that has been approved as a contractor under NELAC standards to assess environmental laboratories.

(3) “Certificate” means a document issued to a laboratory that has received certification or accreditation pursuant to this article.

(4) “Certification” means the granting of approval by the department to a laboratory that has met the standards and requirements of this chapter and the regulations adopted thereunder. Certification shall not include NELAP accreditation.

(5) “Corrective action report” means a written document signed by or on behalf of a person, entity, or laboratory that states the corrective
actions proposed by the person, entity, or laboratory to correct the deficiencies or violations stated in a report of deficiencies.

(6) “Deficiency” means noncompliance with one or more of the requirements of this article or any rule or regulation adopted thereunder.

(7) “ELAP” means the State Department of Health Services’ Environmental Laboratory Accreditation Program.

(8) “Laboratory” means any facility or vehicle that is owned by a person, or by a public or private entity, and that is equipped and operated to carry out analyses in any of the fields of testing listed in Section 100860.1 or Section 100862.

(9) “NELAC” means the National Environmental Laboratory Accreditation Conference, which is a voluntary organization of state and federal officials.

(10) “NELAC standards” refer to the standards found in EPA publication number 600/R-98/151, November 1998, and any subsequent amendments.

(11) “NELAP” means the National Environmental Laboratory Accreditation Program established by NELAC.

(12) “NELAP accredited laboratory” means a laboratory that has met the standards of NELAC and has been accredited by a primary or secondary NELAP recognized authority.

(13) “NELAP approved accrediting authority” means a state agency that is authorized by NELAC to accredit laboratories.

(14) “NELAP recognized primary accrediting authority” means a state or federal agency that is responsible for the accreditation of environmental laboratories within that state.

(15) “NELAP recognized secondary accrediting authority” means a state or federal agency that grants NELAP accreditation to laboratories based on their accreditation by a NELAP recognized primary accrediting authority.

(16) “Performance based measurement system” means a set of processes wherein the data quality needs, mandates, or limitations of a program or project are specified and serve as criteria for selecting appropriate test methods to meet those needs.

(17) “Pesticide” means any substance that alone, in chemical combination, or in any formulation with one or more substances, is an “economic poison” within the meaning of Section 12753 of the Food and Agricultural Code or a “pesticide” as defined in the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.).

(18) “Regulatory agency” means any federal, state, or local governmental agency that utilizes environmental analyses performed by a laboratory regulated under this section.

(19) “Regulatory purposes” means the use of laboratory analysis required by a regulatory governmental agency for determining
compliance with this section or Chapter 6.5 (commencing with Section 25100) of, Chapter 6.7 (commencing with Section 25280) of, and Chapter 6.8 (commencing with Section 25300) of, Division 20, Article 1 (commencing with Section 116270) of, Article 2 (commencing with Section 116325) of, and Article 3 (commencing with Section 116350) of, Chapter 4 of Part 12 of Division 104, or Division 7 (commencing with Section 13000) of the Water Code, or the regulations adopted under any of the provisions set forth in this paragraph.

SEC. 2. Section 100837 of the Health and Safety Code is amended to read:

100837. The department may contract with approved third-party laboratory assessor bodies in accordance with the criteria developed by the NELAC or other federal agencies.

SEC. 3. Section 100840 of the Health and Safety Code is amended to read:

100840. Any laboratory requesting ELAP certification or NELAP accreditation under this article shall file with the department an application on forms prescribed by the department containing all of the following:

(a) The names of the applicant and the laboratory.
(b) The location of the laboratory.
(c) A list of fields of testing for which the laboratory is seeking certification, selected from the activities listed in Section 100860.1 or 100862.
(d) Evidence satisfactory to the department that the applicant has the ability to comply with this article and the regulations adopted under this article.
(e) Any other information required by the department for administration or enforcement of this article or regulations adopted under this article.

SEC. 4. Section 100845 of the Health and Safety Code is amended to read:

100845. (a) Each certificate issued pursuant to this article for ELAP certification shall be issued to the owner of the laboratory and shall expire 24 months from the date of issuance. An application for renewal shall be filed with the department prior to the expiration date of the certificate. Failure to make timely application for renewal shall result in expiration of the certificate.
(b) A certificate shall be forfeited by operation of law prior to its expiration date when one of the following occurs:
   (1) The owner sells or otherwise transfers the ownership of the laboratory, except that the certificate shall remain in force 90 calendar days if the department receives written assurance and appropriate documentation within 30 calendar days after the change has occurred...
that one or more of the conditions in subdivision (c) are met. The department shall accept or reject the assurance in writing within 30 calendar days after it has been received.

(2) There is a change in the location of the laboratory (except a mobile laboratory) or structural alteration that may affect adversely the quality of analysis in the fields of testing for which the laboratory has been certified or is seeking certification, without written notification to the department within 30 calendar days.

(3) The certificate holder surrenders the certificate to the department.

(c) Upon change of ownership of a laboratory, the department may extend a certificate to the expiration date of the original certificate upon written assurance by the new owner that the operation of the laboratory will continue so as not to adversely affect the conditions regulated by this article.

(d) The department shall be notified in writing within 30 calendar days whenever there is a change of director or other person in charge of a laboratory certified under this article. The notification shall include documentation of the qualifications of the new director or other person in charge of the laboratory.

SEC. 5. Section 100847 of the Health and Safety Code is amended to read:

100847. (a) The period of accreditation for NELAP accredited laboratories shall be 12 months. An application for renewal shall be filed with the department prior to the expiration date of the accreditation. Failure to make timely application for renewal shall result in expiration of the accreditation.

(b) The accrediting authority shall be notified in writing within 30 calendar days of the sale or other transfer of ownership of a NELAP accredited laboratory.

(c) The accrediting authority shall be notified in writing within 30 calendar days of the change in location of a NELAP accredited laboratory, other than a mobile laboratory.

(d) The accrediting authority shall be notified within 30 calendar days whenever there is a change of laboratory director, or other individual in charge of the laboratory.

(e) NELAP accredited laboratories shall conspicuously display their most recent NELAP accreditation certificate or their accreditation fields of testing, or both, in a permanent place in their laboratory.

(f) NELAP accredited laboratories shall not use their NELAP accreditation document or their accreditation status to imply any endorsement by the accrediting authority.

SEC. 6. Section 100850 of the Health and Safety Code is amended to read:
Upon the filing of an application for ELAP certification or NELAP accreditation and after a finding by the department that there is full compliance with this article and regulations adopted under this article, the department shall issue to the owner certification or accreditation in the fields of testing identified in Section 100860.1 or 100862.

(b) The department shall deny or revoke a certificate if it finds any of the following:

(1) The laboratory fails to report acceptable results in the analysis of proficiency testing samples.

(2) The laboratory fails to analyze proficiency testing samples.

(3) The laboratory submits, as its own, proficiency testing sample results generated by another laboratory.

(4) The laboratory fails to pass an onsite assessment.

(5) The laboratory is not in compliance with any other provision of this article or regulations adopted under this article.

(c) Provided that there is compliance with all other provisions of this article, the department may restrict a certificate to the fields of testing of Section 100860 or 100862 or subgroups thereof as defined by regulation for which acceptable proficiency testing results have been produced and the onsite assessment was passed.

(d) Upon the filing of a complete application for certification or accreditation pursuant to subdivision (a) and Section 100870, the department may issue to a laboratory interim certification or accreditation pending the completion of onsite assessment interim certification and accreditation shall be nonrenewable and shall remain in effect until certification and accreditation is either granted under subdivision (a) or denied under subdivision (b), but not later than one year after the date of issuance.

SEC. 7. Section 100852 of the Health and Safety Code is amended to read:

(a) Notwithstanding any other provision of law, the department may issue a certificate to the owner of a laboratory in a field of testing or method adopted by the federal Environmental Protection Agency pursuant to Part 136 of Title 40 of the Code of Federal Regulations, as amended September 11, 1992, as published in the Federal Register (57 FR 41830), or Part 141 of Title 40 of the Code of Federal Regulations, as amended July 17, 1992, as published in the Federal Register (57 FR 31776), and as subsequently amended and published in the Code of Federal Regulations.

(b) As a NELAP approved accrediting authority, the department shall accept performance based measurement system methods, when mandated methods are indicated. A fee, as specified in regulations
adopted by the department, may be charged for the review of each performance based measurement system method.

(c) Notwithstanding any other provision of law, the department shall not be required to meet the requirements of Chapter 3.5 (commencing with Section 11340) of the Government Code in order to issue a certificate pursuant to subdivision (a).

SEC. 8. Section 100855 of the Health and Safety Code is amended to read:

100855. Upon the denial of any application for ELAP certification or NELAP accreditation, or the revocation or suspension of ELAP certification or NELAP accreditation, the department shall immediately notify the applicant or organization by certified mail, return receipt requested, of the action and the reasons for the action. Within 20 calendar days of receipt, the applicant or organization may present the department with a written petition for a hearing. Upon receipt in proper form by the department, the petition shall be set for hearing. The proceedings shall be conducted in accordance with Section 100171 and the department has all the powers granted in that section.

SEC. 9. Section 100865 of the Health and Safety Code is amended to read:

100865. (a) In order to carry out the purpose of this article, any duly authorized representative of the department may do the following:

(1) Enter and inspect a laboratory that is ELAP certified or NELAP accredited pursuant to this article or that has applied for ELAP certification or NELAP accreditation.

(2) Inspect and photograph any portion of the laboratory, equipment, any activity, or any samples taken, or copy and photograph any records, reports, test results, or other information related solely to certification under this article or regulations adopted pursuant to this article.

(b) It shall be a misdemeanor for any person to prevent, interfere with, or attempt to impede in any way, any duly authorized representative of the department from undertaking the activities authorized by this section.

(c) If a laboratory that is seeking ELAP certification, NELAP accreditation, ELAP recertification, or NELAP reaccreditation refuses entry of a duly authorized representative during normal business hours for either an announced or unannounced onsite assessment, the certification, accreditation, recertification, or reaccreditation shall be denied or revoked.

(d) Refusal of a request by a NELAP approved accrediting authority, the department, or any employee, agent, or contractor of the department, for permission to inspect, pursuant to this section, the laboratory and its operations and pertinent records during the hours the laboratory is in
operation shall result in denial or revocation of ELAP certification or NELAP accreditation.

SEC. 10. Section 100870 of the Health and Safety Code is amended to read:

100870. (a) Any laboratory that is ELAP certified or holds NELAP accreditation or has applied for ELAP certification or NELAP accreditation or for renewal of ELAP certification or NELAP accreditation under this article, shall analyze proficiency testing samples, if these testing samples are available. The department shall have the authority to contract with third parties for the provision of proficiency testing samples for those laboratories that hold or are applying for ELAP certification. The samples shall be tested by the laboratory according to methods specifically approved for this purpose by the United States government or the department, or alternate methods of demonstrated adequacy or equivalence, as determined by the department. Proficiency testing sample sets shall be provided, when available, not less than twice, nor more than four times, a year to each certified laboratory that performs analyses of food for pesticide residues.

(b) (1) The department may provide directly or indirectly proficiency testing samples to a laboratory for the purpose of determining compliance with this article with or without identifying the department.

(2) When the department identifies itself, all of the following shall apply:

(A) The results of the testing shall be submitted to the department on forms provided by the department on or before the date specified by the department, and shall be used in determining the competency of the laboratory.

(B) There shall be no charge to the department for the analysis.

(3) When the department does not identify itself, the department shall pay the price requested by the laboratory for the analyses.

(c) If a certified or NELAP accredited laboratory submits proficiency testing sample results generated by another laboratory as its own, the certification or NELAP accreditation shall be immediately revoked.

(d) Laboratories shall obtain their proficiency testing samples from proficiency testing sample providers that meet NELAC standards. Laboratories shall bear the cost of any proficiency testing study fee charged for participation. Each laboratory shall authorize the providers of proficiency testing samples to release the report of the study results directly to the department, as well as to the laboratory.

SEC. 11. Section 100885 of the Health and Safety Code is amended to read:

100885. (a) Any person who operates a laboratory that performs work that requires certification or NELAC accreditation under Section
25198, 25298.5, 25358.4, 110490, or 116390 of this code, or Section 13176 of the Water Code, who is not certified or NELAC accredited to do so, may be enjoined from so doing by any court of competent jurisdiction upon suit by the department.

(b) When the department determines that any person has engaged in, or is engaged in, any act or practice that constitutes a violation of this article, or any regulation or order issued or adopted thereunder, the department may bring an action in the superior court for an order enjoining these practices or for an order directing compliance and affording any further relief that may be required to ensure compliance with this article.

SEC. 12. Section 100895 of the Health and Safety Code is amended to read:

100895. (a) Any person who knowingly does any of the following acts may, upon conviction, be punished by a fine of not more than twenty-five thousand dollars ($25,000) for each day of violation, or by imprisonment in the county jail not to exceed one year, or by both the fine and imprisonment:

(1) Makes any false statement or representation in any application, record, report, or other document submitted, maintained, or used for the purposes of compliance with this article.

(2) Has in his or her possession any record required to be maintained pursuant to this article that has been altered or concealed.

(3) Destroys, alters, or conceals any record required to be maintained pursuant to this article.

(4) Withholds information regarding an imminent and substantial danger to the public health or safety when the information has been requested by the department in writing and is required to carry out the department’s responsibilities pursuant to this article.

(b) If the conviction under subdivision (a) is for a violation committed after a first conviction of the person under this section, the person may be punished by imprisonment in the state prison for up to 24 months, or in the county jail for not to exceed one year, or by a fine of not less than two thousand dollars ($2,000) or more than fifty thousand dollars ($50,000) per day of violation, or by both the fine and imprisonment.

(c) An ELAP certified or NELAP accredited laboratory, upon suspension, revocation, or withdrawal of its ELAP certification or NELAP accreditation, shall do all of the following:

(1) Discontinue use of all catalogs, advertising, business solicitations, proposals, quotations, or their materials that contain reference to their past certification or accreditation status.

(2) Return its ELAP certificate or its NELAP accreditation to the department.
(3) Cease all testing of samples for regulatory purposes.
(d) The penalties cited in subdivisions (a) and (b) shall also apply to NELAP accredited laboratories.

SEC. 13. Section 100915 of the Health and Safety Code is amended to read:

100915. (a) The department may temporarily suspend, in whole or in part, ELAP certification or NELAP accreditation prior to any hearing, when it has determined that this action is necessary to protect the public. The department shall notify the owner of the temporary suspension and the effective date thereof and at the same time shall serve the owner with an accusation. Upon receipt of a notice of defense by the owner, the matter shall be set for hearing within 15 calendar days. The hearing shall be held as soon as possible but no later than 30 calendar days after receipt of the notice. The temporary suspension shall remain in effect until the hearing is completed and the department has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the department fails to make a final determination on the merits within 60 calendar days after the original hearing has been completed.
(b) During the suspension, the laboratory shall discontinue the analysis of samples for the specified fields of testing.

CHAPTER 216

An act to add Section 1104.1 to the Military and Veterans Code, relating to veterans, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 14, 2002. Filed with Secretary of State August 14, 2002.]

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

SECTION 1. The Legislature finds and declares all of the following:
(a) With respect to veterans in general, the Legislature finds and declares all of the following:
(1) Over 1,000 United States veterans who fought in World War II die every day.
(2) More veterans live in California than in any other state in the nation. Of the nation’s 25,229,000 veterans, 2,367,700 of them live in California, or 9.3 percent. Additionally, 596,500 more veterans live in California than in any other state in the nation.
(3) California has been identified by the United States Department of Veterans Affairs as one of the three states with a “great need” for veterans’ homes. The fiscal year 2002 United States Department of Veterans Affairs veterans’ home bed analysis lists the current need in California as 3,167 beds.

(4) The highest concentration of veterans are in the 53 to 58 years age range and are Vietnam-era veterans. There are approximately 800,000 Vietnam-era veterans in California who may need care soon.

(5) There are presently 430,800 Korean War-era veterans between the ages of 66 and 75 years in California who are at the prime age to receive care now.

(6) Approximately 18 million of the United States’ 25 million veterans served the country during wartime.

(b) With respect to a veterans’ home at Lancaster, the Legislature finds and declares all of the following:

(1) There are over 300,000 eligible veterans living in the 60-mile service area of the Lancaster veterans’ homesite.

(2) The Antelope Valley boasts a vibrant military community with a rich military and aerospace tradition. Lancaster is in the heart of the Antelope Valley, which is home to Edwards Air Force Base, Air Force Plant 42, NASA Dryden, Phillips Rocket Propulsion Laboratory, Boeing’s Phantomworks facility, Northrup-Gruman’s B-2 production facility, and the legendary Lockheed Martin Skunkworks facility.

(3) The Lancaster veterans’ homesite is within an hour drive of two Veterans Affairs hospitals, and in emergencies, is within a five-mile radius of three acute care hospitals. The Antelope Valley Hospital employs nearly 700 skilled nurses and the Antelope Valley Community College graduates over 200 registered nurses, LVNs, and medical technicians each year.

(c) With respect to a veterans’ home at Saticoy, the Legislature finds and declares all of the following:

(1) Ventura County has been home to three major naval installations since the 1940s. Presently, Ventura County is home to Point Mugu Naval Air Station and Port Hueneme United States Naval Construction Battalion Center. Also located near the Saticoy site is Vandenberg Air Force Base in Santa Barbara County, as well as Camp Roberts and Camp San Luis Obispo in San Luis Obispo County.

(2) The Tri-Counties Region supports a veterans’ population of 134,000. The Ventura County veterans services organization estimates that there are 70,000 veterans living in Ventura County alone. Another 34,000 veterans reside in Santa Barbara County and 30,000 veterans reside in San Luis Obispo County.

(3) Ventura College has one of the largest nursing programs in the state. Presently, there are 168 students enrolled in the Ventura College
nursing program. Oxnard and Moorpark Colleges also have viable nursing programs and are located in Ventura County.

(4) The Saticoy site boasts easy access to a variety of veterans services. The veterans outpatient clinics at Oxnard, Santa Barbara, San Luis Obispo, Sepulveda, and the West Los Angeles Veterans Hospital are all in close proximity to the Saticoy site.

(d) With respect to a veterans’ home at West Los Angeles, the Legislature finds and declares all of the following:

(1) The Governor’s Commission on California Veterans Homes enthusiastically recommends the West Los Angeles veterans’ homesite, stating—“It is the majority opinion of the Commission members that the best site in the State for a Veterans Home is located on the property at the Greater Los Angeles Veterans Affairs Medical Center in Los Angeles.”

(2) There are 690,600 veterans that presently reside in Los Angeles County. There are more veterans living in Los Angeles County than in San Francisco, San Diego, San Bernardino, Santa Barbara, Riverside, and Ventura Counties combined.

(3) One-third of California’s veterans’ population resides in either Los Angeles or Orange County. According to the United States Department of Veterans Affairs, the unmet need just for this area is estimated at 1,700 beds.

(4) The Los Angeles site has the potential to become a “Center of Excellence” for the California veterans’ home system. The Los Angeles site is located one-half mile from the Veterans Affairs Greater Los Angeles Health Care System (GLAHS). The GLAHS is the largest medical center in the Veterans Affairs health care system and has the broadest range of clinical care, education, and research programs available. The Los Angeles site will showcase a much-needed primary Alzheimer’s and dementia care facility. Affiliation with UCLA and USC medical centers assures the highest quality of medical care for Los Angeles veterans’ home residents. More than 250 GLAHS staff are UCLA or USC medical faculty members and over 270 UCLA and USC faculty are listed as having primary interest in geriatrics or gerontology.

(5) The population and resources of the metropolitan Los Angeles area provide a large pool of highly qualified staff candidates. The proposed Veterans’ Home, Los Angeles would have access to a pool of excellent candidates for all required support positions, including physicians, nurses, pharmacists, physical therapists, and administrative personnel.

(e) With respect to the need for more veterans’ homes in California, the Legislature notes all of the following recommendations of the Governor’s Commission on California Veterans Homes:
(1) Recommendation one by the Governor’s Commission on California Veterans Homes states: Immediate action is necessary. The commission urges the Governor and the Legislature to take action on construction of veterans homes by building concurrently as many as possible.

(2) Recommendation two by the Governor’s Commission on California Veterans Homes states: It is the majority opinion of the commission members that the best site in the state for a veterans home is located on the property at the Greater Los Angeles Veterans Affairs Medical Center in Los Angeles.

(3) Recommendation five by the Governor’s Commission on California Veterans Homes states: Build the primary Alzheimer’s and dementia care facility at the Greater Los Angeles Veterans Affairs Medical Center.

SEC. 2. (a) It is the intent of the Legislature that:

(1) A veterans’ home be built in the communities of Lancaster, Saticoy, and West Los Angeles, as described in Application Number 10-0388, dated April 11, 2002.

(2) In the event modifications to the entire project are needed, those modifications shall in no way lessen the number of beds and adult day care capabilities at the Lancaster and Saticoy facilities, as outlined in Application Number 10-0388, dated April 11, 2002.

(3) If delays occur in one or more of the proposed facilities within the application, it shall not affect the construction schedules, opening, operation, or administration of the other facilities.

(b) It is the further intent of the Legislature to support the expansion of capacity and services at the Lancaster and Saticoy facilities when the demand for services exceeds design capacity.

SEC. 3. Section 1104.1 is added to the Military and Veterans Code, to read:

1104.1. (a) Notwithstanding Section 13340 of the Government Code, the moneys in the Veterans’ Home Fund established by Section 1103 are, subject to the limit set forth in subdivision (b), hereby continuously appropriated, without regard to fiscal years, to the Department of Veterans Affairs for the funding of the state’s matching requirement for the construction of all of the following:

(1) The Veterans’ Home of California, Lancaster, as described in paragraph (4) of subdivision (b) of Section 1011.

(2) The Veterans’ Home of California, Saticoy, as described in paragraph (5) of subdivision (b) of Section 1011.

(3) The Veterans’ Home of California, West Los Angeles, as provided for in subdivision (a) of Section 1104.

(b) The total amount appropriated in accordance with subdivision (a) may not exceed the sum of thirty-one million dollars ($31,000,000).
(c) The homes specified in subdivision (a) may care for veterans with substance abuse disorders.

SEC. 4. This act shall become operative only if AB 2953, SB 1234, and SB 1773 are enacted and become effective on or before January 1, 2003.

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 meet the filing date for the eligibility list to receive matching federal funds from the United States Department of Veterans Affairs for the construction of the veterans’ homes at Lancaster, Saticoy, and West Los Angeles, it is necessary that this act take effect immediately.

CHAPTER 217

An act to add Chapter 3.3 (commencing with Section 15819.60) to Part 10b of Division 3 of Title 2 of the Government Code, relating to veterans’ homes, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 14, 2002. Filed with Secretary of State August 14, 2002.]

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

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

(a) With respect to veterans in general, the Legislature finds and declares all of the following:

(1) Over 1,000 United States veterans who fought in World War II die every day.

(2) More veterans live in California than in any other state in the nation. Of the nation’s 25,229,000 veterans, 2,367,700 of them live in California, or 9.3 percent. Additionally, 596,500 more veterans live in California than in any other state in the nation.

(3) California has been identified by the United States Department of Veterans Affairs as one of the three states with a “great need” for veterans’ homes. The fiscal year 2002 United States Department of Veterans Affairs veterans’ home bed analysis lists the current need in California as 3,167 beds.
(4) The highest concentration of veterans are in the 53 to 58 years age range and are Vietnam-era veterans. There are approximately 800,000 Vietnam-era veterans in California who may need care soon.

(5) There are presently 430,800 Korean War-era veterans between the ages of 66 and 75 years in California who are at the prime age to receive care now.

(6) Approximately 18 million of the United States’ 25 million veterans served the country during wartime.

(b) With respect to a veterans’ home in Fresno County, the Legislature finds and declares all of the following:

(1) The Governor’s Commission on California Veterans’ Homes recommends that Fresno County be placed on the priority list for the construction of a veterans’ home.

(2) Twelve percent of the veteran population of California resides in the Central Valley. Because of demographics and a lack of services for veterans, the San Joaquin Valley needs a veterans’ home.

(3) Fresno County is the site of one of the federal Department of Veterans Affairs medical centers and, therefore, has access to skilled medical professionals. Yet, Fresno County is in an area not served by any present or proposed veterans’ home.

(c) With respect to a veterans’ home at Redding in Shasta County, the Legislature finds and declares all of the following:

(1) The Governor’s Commission on California Veterans’ Homes recommends that the state build a veterans’ home at Redding in Shasta County to serve the needs of the 12 northern counties. The veterans in the northern California area have demonstrated the need for services and deserve a veterans’ home.

(2) Geography dictates that some areas in northern California are so removed from the central population core that it places those individuals living there at a hardship. The Governor’s Commission on California Veterans’ Homes has concluded that it is necessary to address the needs of the veterans in northern California. Many veterans in the area are located far from any services and, thus, must travel long distances to obtain any care from the veterans’ service network.

SEC. 2. Chapter 3.3 (commencing with Section 15819.60) is added to Part 10b of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 3.3. FINANCING OF CALIFORNIA VETERANS’ HOMES

15819.60. (a) The Department of General Services, on behalf of the Department of Veterans Affairs, may construct and establish additional veterans’ homes to be located in Fresno County and Shasta County.
(b) The Department of General Services, on behalf of the Department of Veterans Affairs, may renovate the veterans’ homes at Yountville, Barstow, and Chula Vista, as needed and justified.

(c) The Department of General Services, on behalf of the Department of Veterans Affairs, may expand the homes proposed to be built at Lancaster, Saticoy, and West Los Angeles, as needed and justified.

(d) The construction of veterans’ homes in Fresno County and Shasta County may not commence until the veterans’ homes in Lancaster, Saticoy, and West Los Angeles have been fully funded.

(e) The veterans’ homes to be constructed in Fresno County and Shasta County may be built concurrently.

15819.65. (a) (1) The State Public Works Board may issue lease-revenue bonds, notes, or bond anticipation notes pursuant to Chapter 5 (commencing with Section 15830) of Part 10b of Division 3 of Title 2 of the Government Code to finance the acquisition, design, construction, renovation, or expansion of the veterans’ homes specified in Section 15819.60.

(2) The issuance of bonds or notes under this section is contingent upon a commitment from the federal government to pay for the federal matching share of the cost of the design, construction, renovation, or expansion of the veterans’ homes specified in Section 15819.60.

(b) The amount of lease-revenue bonds, notes, or bond anticipation notes to be sold pursuant to Chapter 5 (commencing with Section 15830) for capital outlay for this purpose shall not exceed the sum of sixty-two million dollars ($62,000,000). This amount shall be available, in addition to any federal funds available, as necessary for the construction, renovation, or expansion of the veterans’ homes, site studies, suitability reports, environmental studies, master planning, architectural programming, schematics, preliminary plans, working drawings, construction, and equipment.

(c) The amount of revenue bonds, negotiable notes, or negotiable bond anticipation notes to be sold shall equal the costs of performance of all functions referred to in subdivision (b), and any additional amounts, as specified in subdivision (g).

(d) The amount of negotiable bond anticipation notes to be sold shall not exceed the amount of revenue bonds or negotiable notes authorized by this chapter.

(e) Notwithstanding Section 13340, funds derived for the purposes of this chapter from the financing methods pursuant to Chapter 5 (commencing with Section 15830) for the acquisition, design, construction, renovation, or expansion of the veterans’ homes are hereby continuously appropriated to the board on behalf of the Department of Veterans Affairs for the acquisition, design, construction, renovation, expansion, or refinancing of the veterans’ homes so financed.
In addition to the funds appropriated pursuant to this section, the federal matching funds available pursuant to the State Veterans’ Home Assistance Improvement Act of 1977 (38 U.S.C. Sec. 8131 et seq.), are hereby continuously appropriated to the board on behalf of the Department of Veterans Affairs for the purposes of design, construction, renovation, expansion, or repayment of any loan related to the projects specified in Section 15819.60.

(f) The State Public Works Board and the Department of Veterans Affairs may obtain interim financing for the project costs authorized in Section 15819.60 from any appropriate source, including, but not limited to, the Pooled Money Investment Account pursuant to Sections 16312 and 16313 of the Government Code.

(g) The board may authorize the augmentation of the acquisition, design, and cost of the construction, renovation, or expansion of the homes set forth in this chapter pursuant to the board’s authority under Section 13332.11. In addition, the board may authorize any additional amounts necessary to establish a reasonable construction reserve and to pay the cost of financing, including, but not limited to, the payment of interest during the design and construction of the projects, the costs of financing a debt service fund, and the cost of issuance of permanent financing for the projects. This additional amount may include interest payable on any interim financing obtained.

(h) The Department of Veterans Affairs is authorized and directed to execute and deliver any and all leases, contracts, agreements, or other documents necessary or advisable to consummate the sale of bonds or otherwise effectuate the financing of the scheduled projects.

(i) In the event that the bonds authorized for projects in Section 15819.60 are not sold, the Department of Veterans’ Affairs shall commit a sufficient portion of its support appropriation, as determined by the Department of Finance, to repay any interim financing. It is the intent of the Legislature that this commitment be made until all interim financing is repaid either through the proceeds from the sale of bonds or from an appropriation.

(j) The State Public Works Board shall not itself be deemed a lead or responsible agency for purposes of the California Environmental Quality Act (commencing with Section 21000 of the Public Resources Code) for any activities under the State Building Construction Act of 1955 (commencing with Section 15800 of the Government Code). This subdivision does not exempt any participating agency or department from the requirements of the California Environmental Quality Act, and is intended to be declarative of existing law.

SEC. 3. This act shall become operative only if AB 2559, AB 2953, and SB 1773 are enacted and become effective on or before January 1, 2003.
SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide adequate facilities for the care of California’s veterans at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 218

An act to add Section 1104.2 to the Military and Veterans Code, relating to veterans, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 14, 2002. Filed with Secretary of State August 14, 2002.]

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

SECTION 1. Section 1104.2 is added to the Military and Veterans Code, to read:

1104.2. Notwithstanding Section 13340 of the Government Code, an amount, not to exceed the sum of fifteen million dollars ($15,000,000), is hereby continuously appropriated, without regard to fiscal years, from the Veterans’ Home Fund to the Department of Veterans Affairs for the renovation of the Veterans’ Home of California, Yountville, as described in Section 1011.

SEC. 2. This act shall become operative only if AB 2559, SB 1234, and SB 1773 are enacted and become effective on or before January 1, 2003.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to meet the filing date for the eligibility list to receive federal funds from the United States Department of Veterans Affairs for the renovation of the Veterans’ Home of California, Yountville, it is necessary that this act take effect immediately.
CHAPTER 219

An act to add Section 1104.2 to the Military and Veterans Code, relating to veterans, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 14, 2002. Filed with Secretary of State August 14, 2002.]

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

SECTION 1. Section 1104.2 is added to the Military and Veterans Code, to read:

1104.2. (a) Notwithstanding Section 13340 of the Government Code, an amount, not to exceed the sum of fifteen million dollars ($15,000,000), is hereby continuously appropriated, without regard to fiscal years, from the Veterans’ Home Fund to the Department of Veterans Affairs, subject to the approval of the Department of Finance, for the state’s matching share for the design and renovation of the Veterans’ Home of California, Yountville, as described in Section 1011.

(b) Excluding any funds required to pay for costs associated with issuing and administering general obligation bonds, any remaining general obligation bond funds available in the Veterans’ Home Fund created under Section 1103 after funding the design, construction, or renovation of the Lancaster, Saticoy, or West Los Angeles veterans homes, the renovation of the veterans’ home at Yountville, and projects funded through any Budget Act, are, notwithstanding Section 13340 of the Government Code, hereby continuously appropriated without regard to fiscal years to the Department of Veterans Affairs, subject to the approval of the Department of Finance, to fund the state’s matching share for renovations at Yountville consistent with the purposes established in subdivision (a) of Section 1104.

(c) Notwithstanding Section 13340 of the Government Code, in addition to the funds appropriated pursuant to this section, the federal matching funds available pursuant to the State Veterans’ Home Assistance Improvement Act of 1977 (38 U.S.C. Sec. 8131 et seq.), are hereby continuously appropriated, without regard to fiscal years, to the Department of Veterans Affairs, subject to the approval of the Department of Finance, for the purpose of design, construction, renovation of, or expansion or repayment of any loan related to the projects specified in this section.

SEC. 2. This act shall become operative only if AB 2559, AB 2953, and SB 1234 are enacted and become effective on or before January 1, 2003.
SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to meet the filing date for the eligibility list to receive federal funds from the United States Department of Veterans Affairs for the renovation of the Veterans’ Home of California, Yountville, it is necessary that this act take effect immediately.

CHAPTER  220

An act to amend, repeal, and add Section 14851 of the Government Code, relating to state publications.

[Approved by Governor August 15, 2002. Filed with Secretary of State August 16, 2002.]

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

SECTION 1. Section 14851 of the Government Code is amended to read:

14851. (a) (1) The Office of State Printing may accept paid advertisements in materials printed or published by the state, except that the department may not print or publish paid political advertising.

(2) The office shall report to the Governor and the Legislature on its implementation of this subdivision no later than December 31, 2005.

(b) The Office of State Printing may print checks and other printed matter necessary for the operation of any industry board or state agricultural district board at the expense of the state.

(c) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

SEC. 2. Section 14851 is added to the Government Code, to read:

14851. (a) No printing for the promotion of sales for any industry shall be done in the Office of State Printing. No printing for the promotion of any agricultural district fair shall be done in the Office of State Printing.

(b) The Office of State Printing may print checks and other printed matter necessary for the operation of any industry board or state agricultural district board at the expense of the state.

(c) This section shall become operative on January 1, 2006.
An act to amend Section 5499.4 of the Business and Professions Code, to amend Sections 1253.5, 1258, 5019, 5303, 5324, 5325, 5380, 5421, 15148, 15359.1, 19420, and 35001 of the Education Code, to amend Sections 307, 308, 8040, 9094, 10500, 10540, 11002, and 18546 of, and to repeal Section 311 of, the Elections Code, to amend Sections 6070, 6076, 6077, 6078, 6215, and 8456 of the Food and Agricultural Code, to amend Sections 4005, 23687, 23731, 25201, 25526, 25537, 26922, 27504.1, 29965, 30003, 36507, 65009, 66499.22, 71081, 76106, 81011.5, 84101, and 88001 of the Government Code, to amend Sections 5831, 5861, 5863, 5864, 5865, 5866, 5867, 5872, 5873, 5874, 6020, 6031, 6035, 6039, 6044, 6045, 6053, 6054, 6055, 6056, and 6230 of the Harbors and Navigation Code, to amend Section 5053 of the Insurance Code, to amend Sections 1170, 1174, 1176, 1179, 1180, 1181, 1182, 1185, 1191, and 1255 of the Military and Veterans Code, to amend Section 6005 of the Penal Code, to amend Section 1865 of the Probate Code, to amend Section 9977 of, and to repeal Sections 4876 and 13021 of, the Public Resources Code, to amend Sections 11825, 12816, 15702, 15703, 15704, 15705, 15706, 15794, 15796, 15842, 15956, 26405, 26654, 27405, 27424, 28746, 28747, 28747.4, 28750.4, 29664, 29714, 31405, 31411, 50033, 50039, 70033, 90773, 90933, 95163, 95194, 98043, 98100, 101170, 101285, 101286, 101287, and 101295 of the Public Utilities Code, to amend Sections 909, 1181, 1186, 3111, 3112.5, 3114, 5026, 8653, 9019, 11302, 19090, 19092, 19093, 19094, 25206, 27044, 27045, 27046, 27047, 27048, 27062, 27063, 27080, 27082, 27100, 27102, 27109, 27123, and 27322 of the Streets and Highways Code, to amend Sections 9368, 9386, 20740, 20911, 22970.10, 22970.20, 22970.25, 30230, 30778, 31133, 34053, 35005, 35048, 35049, 35050, 35051, 35052, 35053, 41303, 45274, 45275, 45276, 50752, 50805, 50816, 50817, 50954, 60080, 60082, 60083, 60095, 60211, 60212, 60213, 60430, 60431, 60434, 60440, 70033, 70041, 71120, 71125, 71126, 71127, 71128, 71129, 71130, 71132, 71133, 71461, and 71463 of, and to repeal Sections 30061, 60049, 71031, and 71135 of, the Water Code, and to amend Sections 4117, 4457, 4804, and 5110 of the Welfare and Institutions Code, relating to local government.

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

SECTION 1. Section 5499.4 of the Business and Professions Code is amended to read:

5499.4. The notice shall be substantially in the following form:
NOTICE TO REMOVE ILLEGAL ADVERTISING DISPLAY

Notice is hereby given that on the ____ day of ____, 20__, the (name of the legislative body) of (city or county) adopted a resolution declaring that an illegal advertising display is located upon or in front of this property which constitutes a public nuisance and must be abated by the removal of the illegal display. Otherwise, it will be removed, and the nuisance abated by the city (or county). The cost of removal will be assessed upon the property from or in front of which the display is removed and will constitute a lien upon the property until paid. Reference is hereby made to the resolution for further particulars. A copy of this resolution is on file in the office of the clerk of the legislative body.

All property owners having any objection to the proposed removal of the display are hereby notified to attend a meeting of the (name of the legislative body) of (city or county) to be held (give date, time, and place), when their objections will be heard and given due consideration.

Dated this _________ day of ________, 20____

________________________________________

(Title)

(City or County of ____________________________)

SEC. 2. Section 1253.5 of the Education Code is amended to read:

1253.5. (a) If a unified school district, described in subdivision (c), is subject to Section 1253, the county board of supervisors of each county wherein the district is situated may by agreement and pursuant to an appropriate resolution adopted by each board, permit the voters of the district who lie outside the county housing the county superintendent of schools who has jurisdiction of the district the right to participate in the election of such county superintendent of schools.

(b) The county elections official of each county affected by the agreement described in subdivision (a) shall be responsible for the conduct of the election within his or her county.

(c) The provisions of this section shall apply only to a unified school district which was formed on July 1, 1965, and that, as of the 1979–80 school year, maintained an enrollment of between 12,000 and 15,000 pupils.

SEC. 3. Section 1258 of the Education Code is amended to read:

1258. Whenever by this code the county superintendent of schools is authorized or required to prepare for, hold, or conduct any election in or for any public school district the county superintendent may contract with the county elections official for the performance under the supervision of the county superintendent of any or all of the duties incident to the preparation for and holding of elections.
The governing board of a school district may contract with the county elections official for the performance under the supervision of the governing board of any or all duties incident to the holding or conducting of an election in the district for the issuance and sale of bonds of the district pursuant to Section 15100.

SEC. 4. Section 5019 of the Education Code is amended to read:

5019. (a) Except in a school district governed by a board of education provided for in the charter of a city or city and county, in any school district or community college district the county committee on school district organization shall have the power to establish trustee areas, rearrange the boundaries of trustee areas, abolish trustee areas, and increase to seven or decrease to five the number of members of the governing board, or to adopt one of the alternative methods of electing governing board members specified in Section 5030.

(b) The county committee on school district organization shall also have the power to establish a common governing board for a high school district and an elementary school district within the boundaries of the high school district. The resolution of the county committee approving the establishment of a common governing board shall be presented to the electors of the school districts as specified in Section 5020.

(c) A proposal to make the changes described in subdivision (a) or (b) may be initiated by the county committee or made to the county committee either by a petition signed by 5 percent or 50, whichever is less, of the qualified registered voters residing in a district in which there are 2,500 or fewer qualified registered voters, or by a petition signed by 2 percent, or 250, whichever is less, of the qualified registered voters residing in a district in which there are 2,501 or more qualified registered voters or by resolution of the governing board of the district. For this purpose, the number of qualified registered voters in the district shall be determined pursuant to the most recent report submitted by the county elections official to the Secretary of State under Section 610 or 6460 of the Elections Code.

When the proposal is made, the county committee shall call and conduct at least one hearing in the district on the matter. At the conclusion of the hearing, the county committee shall approve or disapprove the proposal.

(d) If the county committee approves pursuant to subdivision (a) the rearrangement of the boundaries of trustee areas for a particular district, then the rearrangement of the trustee areas shall be effectuated for the next district election occurring at least 120 days after its approval, unless at least 5 percent of the registered voters of the district sign a petition requesting an election on the proposed rearrangement of trustee area boundaries. The petition for an election shall be submitted to the elections official within 60 days of the proposal’s adoption by the county
committee. If the qualified registered voters approve pursuant to subdivision (b) the rearrangement of the boundaries to the trustee areas for a particular district, then the rearrangement of the trustee areas shall be effectuated for the next district election occurring at least 120 days after its approval by the voters.

SEC. 5. Section 5303 of the Education Code is amended to read:

5303. The county elections official shall perform the duties incident to the preparation for, and holding of, all district elections.

In districts situated in two or more counties, or in elections to organize or reorganize districts in territory situated in two or more counties, the county elections officials in the counties in which any part of the district territory is situated, shall, by mutual agreement, provide for the performance of those duties.

SEC. 6. Section 5324 of the Education Code is amended to read:

5324. At least 120 days prior to the date of the election in the case of an election for governing board members, the county superintendent of schools shall deliver to the county elections official in the county where the election is to be held, copies of:

(a) The order of election.
(b) The formal notice of election.

SEC. 7. Section 5325 of the Education Code is amended to read:

5325. Any school district election or community college district election, except a bond measure election, ordered to be held in accordance with this code shall be called by the county superintendent of schools having jurisdiction of the election by doing both of the following:

(a) Posting or publication of notices of election.
(b) Delivery of a copy of the formal notice of election to the county elections official at least 120 days prior to the date of the election in the case of an election for governing board members.

SEC. 8. Section 5380 of the Education Code is amended to read:

5380. Any election officer serving at any school district election or community college district election may be paid out of the funds of the district as compensation for his or her services as an election officer a sum determined by the county elections official and approved by the county board of supervisors, not to exceed the amount paid from the county treasury to officers of the preceding general election. In districts in which the polls are kept open less than 12 hours, the maximum compensation for election officers shall be the sum bearing the same relation to the amount paid to election officers of the last preceding general election as the number of hours the polls were open at the election bears to the number of hours the polls were open in the preceding general election.

SEC. 9. Section 5421 of the Education Code is amended to read:
5421. The cost of any election held within a single district shall be borne by the entire district, and shall be paid out of its funds. Election costs shall be determined by the county elections official and approved by the county board of supervisors.

SEC. 10. Section 15148 of the Education Code is amended to read:

15148. If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder or bidders, and the clerk of the board of supervisors shall prepare and certify to all of the proceedings on file in his or her office relative to the issuance and sale of the bonds, which transcript of proceedings shall be delivered to the successful bidder or bidders without charge. If no bids are received, or if the board determines that the bids received exceed either the maximum acceptable interest rate prescribed by the governing board or the maximum rate prescribed by Section 15143, or that they are not satisfactory as to price or responsibility of the bidders, the board may reject all bids received, if any, and without further authorization from the governing board, either readvertise or sell the bonds at private sale.

For the purpose of determining whether or not a bid exceeds the maximum acceptable interest rate, the interest rate of that bid shall be deemed to be the interest rate resulting from the total net interest cost arrived at by computing the total amount of interest which the district would be required to pay from the date of the bonds to the respective maturity dates thereof at the rate or rates specified in the bid and by deducting therefrom any premium bid.

SEC. 11. Section 15359.1 of the Education Code is amended to read:

15359.1. (a) If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder or bidders, and the clerk of the board of supervisors shall prepare and certify to all of the proceedings on file in his or her office relative to the issuance and sale of the bonds, which transcript of proceedings shall be delivered to the successful bidder or bidders without charge. If no bids are received, or if the board determines that the bids received exceed either the maximum acceptable interest rate prescribed by the governing board or the maximum rate prescribed by Section 15353, or that they are not satisfactory as to price or responsibility of the bidders, the board may reject all bids received, if any, and without further authorization from the governing board of the school district or community college district in which the school facilities improvement district is located, either readvertise or sell the bonds at private sale.

(b) For the purpose of determining whether or not a bid exceeds the maximum acceptable interest rate, the interest rate of that bid shall be deemed to be the interest rate resulting from the total net interest cost arrived at by computing the total amount of interest that the school
facilities improvement district would be required to pay from the date of the bonds to the respective maturity dates thereof at the rate or rates specified in the bid and by deducting therefrom any premium bid.

SEC. 12. Section 19420 of the Education Code is amended to read:

19420. Within 30 days after the filing with the clerk of the board of supervisors or county board of supervisors of the resolution declaring the organization of the district, the supervising board of supervisors shall appoint the required number of library trustees from the district at large.

SEC. 13. Section 35001 of the Education Code is amended to read:

35001. (a) Whenever a petition is presented to the governing board of a school district, signed by at least 15 qualified electors of that school district, asking that the name of the district be changed and stating the new name requested, the governing board shall designate a day upon which it will act upon the petition, which shall not be less than 10 days nor more than 40 days after the receipt of the petition.

The governing board shall give or cause to be given notice to all parties interested by publication in a newspaper published within the school district, or, if there is none, in any newspaper published in the county, of the time set for the hearing of the petition. The notice shall be published at least twice before the day set for hearing. At the hearing the board shall by resolution either grant or deny the petition, and, if granted, shall notify the county superintendent of schools of the change of the name of the district. The board shall also certify the name change to the county elections official of each county in which any part of the school district is situated. The name change shall also be entered in the records of the governing board.

(b) As an alternative to the procedures set forth in subdivision (a), a petition may be presented to the superintendent of schools having jurisdiction of any high school district signed by at least two-thirds of the members of the governing board of the high school district asking that the name of the district be changed and stating the new name desired. The procedure shall thereafter be the same as is provided for electors' petitions in subdivision (a).

SEC. 14. Section 307 of the Elections Code is amended to read:

307. “Clerk” means the county elections official, registrar of voters, city clerk, or other officer or board charged with the duty of conducting any election.

SEC. 15. Section 308 of the Elections Code is amended to read:

308. “District elections official,” for the purposes of initiative and referendum under Article 1 (commencing with Section 9300) of Chapter 4 of Division 9, includes the county elections official or other officer or board charged with performing the duties required of the clerk of the district by that chapter.

SEC. 16. Section 311 of the Elections Code is repealed.
SEC. 17. Section 8040 of the Elections Code is amended to read:
8040. (a) The declaration of candidacy by a candidate shall be substantially as follows:

DECLARATION OF CANDIDACY

I hereby declare myself a ____ Party candidate for nomination to the office of ____ District Number ____ to be voted for at the primary election to be held ____ , 20__, and declare the following to be true:

My name is ________________________________.

I want my name and occupational designation to appear on the ballot as follows: ________________.

Addresses:

Residence __________________________________________________________________________

Business __________________________________________________________________________

Mailing __________________________________________________________________________

Telephone numbers: Day _____ Evening ______

I meet the statutory and constitutional qualifications for this office (including, but not limited to, citizenship, residency, and party affiliation, if required).

I am at present an incumbent of the following public office (if any) ____.

If nominated, I will accept the nomination and not withdraw.

__________________________
Signature of candidate

State of California )
County of ____________ ) ss.
)

Subscribed and sworn to before me this ___ day of ____, 20__.

__________________________
Notary Public (or other official)

Examined and certified by me this ____ day of _____, 20__.

__________________________
County Elections Official

WARNING: Every person acting on behalf of a candidate is guilty of a misdemeanor who deliberately fails to file at the proper time and in the proper place any declaration of candidacy in his or her possession which is entitled to be filed under the provisions of the Elections Code Section
(b) A candidate for a judicial office may not be required to state his or her residential address on the declaration of candidacy. However, in cases where the candidate does not state his or her residential address on the declaration of candidacy, the elections official shall verify whether his or her address is within the appropriate political subdivision and add the notation “verified” where appropriate.

SEC. 18. Section 9094 of the Elections Code is amended to read:

9094. (a) The Secretary of State shall mail ballot pamphlets to voters, in those instances in which the county elections official uses data processing equipment to store the information set forth in the affidavits of registration, before the election at which measures contained in the ballot pamphlet are to be voted on unless a voter has registered fewer than 29 days before the election. The mailing shall commence not less than 40 days before the election and shall be completed no later than 21 days before the election for those voters who registered on or before the 60th day before the election. The Secretary of State shall mail one copy of the ballot pamphlet to each registered voter at the postal address stated on the voter’s affidavit of registration, or the Secretary of State may mail only one ballot pamphlet to two or more registered voters having the same surname and the same postal address.

(b) In those instances in which the county elections official does not utilize data processing equipment to store the information set forth in the affidavits of registration, the Secretary of State shall furnish ballot pamphlets to the county elections official not less than 45 days before the election at which measures contained in the ballot pamphlet are to be voted on and the county elections official shall mail ballot pamphlets to voters, on the same dates and in the same manner provided by subdivision (a).

(c) The Secretary of State shall provide for the mailing of ballot pamphlets to voters registering after the 60th day before the election and before the 28th day before the election, by either: (1) mailing in the manner as provided in subdivision (a), or (2) requiring the county elections official to mail ballot pamphlets to those voters registering in the county after the 60th day before the election and before the 28th day before the election pursuant to the provisions of this section. The second mailing of ballot pamphlets shall be completed no later than 10 days before the election. The county elections official shall mail a ballot pamphlet to any person requesting a ballot pamphlet. Three copies, to be supplied by the Secretary of State, shall be kept at every polling place, while an election is in progress, so that they may be freely consulted by the voters.

SEC. 19. Section 10500 of the Elections Code is amended to read:
10500. (a) This part may be cited as the Uniform District Election Law.

(b) As used in this part, the following definitions apply:

1. “Affected county” means a county in which any land of the district or agency is situated.
2. “Director” means a member of the governing body.
3. “District” or “agency” means any district or agency of the type designated by and formed pursuant to the provisions of any principal act that incorporates this part.
4. “Elective office” means any office that may, under the principal act of the district or agency, be filled by way of an election.
5. “Elective officer” means “elective officer” as defined by the principal act of each district or agency or if not defined, any officer of a district or agency holding an office that can be filled by election.
6. “General district election” means an election held pursuant to the provisions of this part.
7. “Governing body” means the board of directors of a district or agency or the board or body which governs the activities of the district or agency.
8. “Landowner voting district” means a district whose principal act requires an elector to be an owner of land located within the district.
9. “Principal act” means the law providing for the creation of a particular district or agency or type of district or agency.
10. “Principal county” means the county in which all the land in the district or agency is situated, or if the district or agency is situated in more than one county, the county in which the greatest portion of the land in the district or agency is situated.
11. “Resident voting district” means any district other than a landowner voting district.
12. “Secretary” means the secretary of the governing body or a person designated by him or her to perform a duty of the secretary.
13. “Supervising authority” means the board of supervisors of the county in which is situated all or most of the land of a district.
14. “Voter” means a voter or elector as respectively defined in the principal act of each district or agency.

SEC. 20. Section 10540 of the Elections Code is amended to read:

10540. Candidates’ statements of their qualifications submitted in accordance with Section 13307 shall be filed with the county elections official, who shall cause the voters’ pamphlet, if any is required, to be mailed.

SEC. 21. Section 11002 of the Elections Code is amended to read:

11002. For the purposes of this division, “elections official” means one of the following:
(a) A county elections official in the case of the recall of elective officers of a county, school district, county board of education, community college district, or resident voting district, and of judges of trial courts.

(b) A city elections official, including, but not necessarily limited to, a city clerk, in the case of the recall of elective officers of a city.

(c) The secretary of the governing board in the case of the recall of elective officers of a landowner voting district or any district in which, at a regular election, candidate’s nomination papers are filed with the secretary of the governing board.

SEC. 22. Section 18546 of the Elections Code is amended to read:

18546. As used in this article:

(a) “Elections official” means the county elections official, registrar of voters, or city clerk.

(b) “Immediate vicinity” means the area within a distance of 100 feet from the room or rooms in which the voters are signing the roster and casting ballots.

SEC. 23. Section 6070 of the Food and Agricultural Code is amended to read:

6070. The board of supervisors in every county where a district has been organized and exists under the provisions of this chapter shall direct the agricultural commissioner to file with the board of supervisors on March 1st of each year a register of every cottongrower intending to grow cotton during the growing season immediately following that date, describing the net acreage of land to be devoted to the growing of cotton by each grower. The agricultural commissioner shall submit a preliminary estimate of the information required to be filed on March 1st in order for the board to prepare the district budget.

The agricultural commissioner shall submit a copy of the register to the clerk of the board of supervisors during election years.

SEC. 24. Section 6076 of the Food and Agricultural Code is amended to read:

6076. In each cotton pests abatement district, a biennial election shall be held in March of each odd-numbered year by the county elections official of the county in which a majority of the acreage in the district is contained. Notice of the election, and of the offices to be filled, shall be published in a newspaper of general circulation in the county once a week for three successive weeks before the first day of February. At the election a sufficient number of directors shall be elected to fill the places of those directors whose terms expire the first day of April immediately following the election.

The county elections official shall make declarations of candidacy available from between 113 and 88 days before the election. Any person eligible for the office of director, desiring to be a candidate for election,
shall file a declaration with the county elections official on or before the 88th day before the election. The county elections official shall certify the qualified candidates and have ballots prepared and printed. The election shall be conducted, as nearly as practicable, in accordance with the general election laws of this state.

SEC. 25. Section 6077 of the Food and Agricultural Code is amended to read:

6077. The county elections official on or after the 29th day before the election shall mail a ballot, an identification envelope, and a stamped and addressed return envelope to each cottongrower on the register submitted by the agricultural commissioner. The ballot shall indicate the number of votes and the number shall be written on the ballot by the clerk. Each cottongrower appearing on the register shall be entitled to one vote for each acre of cotton for which a valid permit to grow cotton is possessed for each office to be filled, or proposition to be voted upon, at that election. Cumulative voting is not authorized.

The ballot shall be printed in substantially the following form:
OFFICIAL BALLOT
General District Election
Cotton Pest Abatement District
County of __________, State of California

MONDAY, APRIL 21, 1969

INSTRUCTIONS TO VOTERS: To vote for a candidate of your selection, mark a cross (+) in the voting square next to the right of the name of that candidate. Where two or more candidates for the same office are to be elected, mark a cross (+) after the names of all the candidates for that office for whom you desire to vote, not to exceed, however, the number of candidates who are to be elected. To vote for a person not on the ballot, write his or her name under the title of the office in the blank space left for that purpose.

All marks except the cross (+) and the data required to be entered hereon by the county clerk, are forbidden.

If you wrongly mark, tear or deface this ballot return it to the county clerk to obtain another.

<table>
<thead>
<tr>
<th>DIRECTOR</th>
<th>Vote for three</th>
</tr>
</thead>
<tbody>
<tr>
<td>MERRILL F. WEST</td>
<td></td>
</tr>
<tr>
<td>CLIFFORD E. ROBERTSON</td>
<td></td>
</tr>
<tr>
<td>COLLINS GRANT</td>
<td></td>
</tr>
</tbody>
</table>

The holder of this ballot is entitled to cast _______ votes.
The ballot shall be placed in the identification envelope by the voter after the voter has indicated his or her choices. The identification envelope shall be sealed and signed by the voter. The identification envelope shall be returned to the county elections official in the sealed return envelope.

Ballots in order to be counted shall be received by the elections official not later than 12 o’clock noon of the first Tuesday after the first Monday in March and the return envelopes containing the ballots shall not be opened until that time. The elections official shall then open the return envelopes and deposit the ballot in its unopened envelope in a ballot box. After deposit of all identification envelopes received, the elections official shall open the ballot box and count the votes cast and certify the results of the election.

The returns of the election shall be reported to the board of directors of the district who shall meet on the Monday following the election and canvass the returns.

SEC. 26. Section 6078 of the Food and Agricultural Code is amended to read:

6078. The persons declared elected shall take the oath of office and file their official bonds with the county elections official on or before the first day of April following their election and shall take office at noon of that day.

SEC. 27. Section 6215 of the Food and Agricultural Code is amended to read:

6215. (a) The board of supervisors shall fix a time and place for the hearing of the petition.
(b) The hearing shall not be less than 20 days, or more than 40 days, after the filing of the petition with the board of supervisors.
(c) The board of supervisors shall order the clerk of the board of supervisors to give notice of the time and place fixed for the hearing upon the petition.

SEC. 28. Section 8456 of the Food and Agricultural Code is amended to read:

8456. The board of supervisors shall order the clerk of the board of supervisors to give notice of the time and place fixed for the hearing upon the petition.

SEC. 29. Section 4005 of the Government Code is amended to read:

4005. Within 60 days from the completion of any public work, the engineer shall prepare and file in the office of the clerk of the board of supervisors of the county in which the public work is performed, or if the engineer maintains an office in the county where the work is performed, then in that office, or if any reclamation, irrigation or other district maintains an office, then in the office of his or her own district
instead of the office of the clerk of the board of supervisors, the following information in addition to that required by Section 4004:

(a) Names of bidders with prices bid, if bids there be.
(b) Changes in adopted or approved plans and specifications or a work authorization describing the work to be performed.
(c) That the work performed has or has not been done in accordance with these plans and specifications or work authorization.
(d) The total cost of the work, segregated so as to show the actual cost of all labor, materials, equipment, engineering or architectural services, including the services of public employees in connection with that work, and other expense. The cost shown for equipment shall include rentals paid or, if the equipment is publicly owned, a reasonable amount for depreciation and the cost of repairs thereon while so used.

SEC. 30. Section 23687 of the Government Code is amended to read:

23687. The statement by the board of supervisors showing the result of the election shall be deposited in the office of the county elections official.

SEC. 31. Section 23731 of the Government Code is amended to read:

23731. The county elections official shall prepare and mail to each eligible registered voter in the county a sample ballot. In all other respects, the election shall be held and conducted, the returns canvassed and the result declared by the governing body in the same manner as provided by law for general elections.

SEC. 32. Section 25201 of the Government Code is amended to read:

25201. Subject to the provisions of the Elections Code, the board may establish, abolish, and change election precincts, appoint inspectors, clerks, and judges of election, canvass all election returns, declare the result, and order the county elections official to issue certificates of election.

SEC. 33. Section 25526 of the Government Code is amended to read:

25526. Before ordering the sale or lease of any property the board of supervisors shall, in a regular open meeting, by a two-thirds vote of all its members, adopt a resolution, declaring its intention to sell the property, or a resolution declaring its intention to lease it, as the case may be. The resolution shall describe the property proposed to be sold, or leased, in a manner as to identify it and shall specify the minimum price, or rental, and the terms upon which it will be sold, or leased, and shall fix a time, not less than three weeks thereafter for a public meeting of the board of supervisors to be held at its regular place of meeting, at which sealed proposals to purchase or lease will be received and considered.
When the minimum price or annual rental is not over two thousand dollars ($2,000) or one hundred fifty dollars ($150) per month for a period of one year or less, instead of describing in detail the property and the terms on which it will be sold or leased, the resolution may briefly identify the property, state the minimum price or rental, and refer to the proposed form of conveyance or lease on file in the office of the clerk of the board of supervisors in which the terms for selling or leasing the property may be seen.

SEC. 34. Section 25537 of the Government Code is amended to read:

25537. (a) In any county the board of supervisors may prescribe by ordinance a procedure alternative to that required by Sections 25526 to 25535, inclusive, for the leasing or licensing of any real property belonging to, leased by, or licensed by, the county. Any alternative procedure so prescribed shall require that the board of supervisors either accept the highest proposal for the proposed lease or license submitted in response to a call for bids posted in at least three public places for not less than 15 days and published for not less than two weeks in a newspaper of general circulation, if the newspaper is published in the county, or reject all bids.

(b) Leases or licenses of a duration not exceeding 10 years and having an estimated monthly rental of not exceeding five thousand dollars ($5,000) may be excluded from the bidding procedure specified in subdivision (a), except that notice shall be given pursuant to Section 6061, posted in the office of the clerk of the board of supervisors, and if the lease or license involves residential property, notice shall be given to the housing sponsors, as defined by Sections 50074 and 50074.5 of the Health and Safety Code. The notice shall describe the property proposed to be leased or licensed, the terms of the lease or license, the location where offers to lease or license the property will be accepted, the location where leases or licenses will be executed, and any county officer authorized to execute the lease or license. If a lease or license is excluded from the bidding procedure, the actual monthly rental in the executed lease or license shall not exceed five thousand dollars ($5,000), the term of the executed lease or license shall not exceed 10 years, and the lease or license is not renewable. The board of supervisors may, by resolution, authorize the county officer or officers as are deemed appropriate, to execute leases or licenses pursuant to this section. The county officer authorized by the board of supervisors to execute licenses pursuant to this section shall provide a notice to the supervisorial district office in which the property proposed to be licensed is located at least five working days prior to execution of the license. The notice shall describe the property proposed to be licensed, the terms and conditions of the license, and the name of the proposed licensee. If the supervisorial
district office has not responded in writing objecting to the proposed license within five working days after the notice has been provided, the proposed license shall be deemed approved by the district office. If the supervisorial district office objects to the proposed license in writing within five working days, the license may be submitted for approval by the board of supervisors at a regular meeting.

(c) Notice pursuant to this section shall also be mailed or delivered at least 15 days prior to accepting offers to lease or license pursuant to this section to any person who has filed a written request for notice with either the clerk of the board or with any other person designated by the board to receive these requests. The county may charge a fee that is reasonably related to the costs of providing this service and the county may require each request to be annually renewed. The notice shall describe the property proposed to be leased or licensed, the terms of the lease or license, the location where offers to lease or license the property will be accepted, the location where leases or licenses will be executed, and any county officer authorized to execute the lease or license.

SEC. 35. Section 26922 of the Government Code is amended to read:

26922. One copy of the report prepared pursuant to Section 26920 shall be filed in the office of the clerk of the board of supervisors, and the auditor shall post and maintain the other in his or her office for at least one quarter.

SEC. 36. Section 27504.1 of the Government Code is amended to read:

27504.1. If the findings are that the deceased met his or her death at the hands of another, the coroner shall, in addition to filing the report in his or her office or with the county clerk, as determined by the board of supervisors pursuant to Section 27503, transmit his or her written findings to the district attorney, the police agency wherein the dead body was recovered, and any other police agency requesting copies of the findings.

The findings and conclusions provided for in this article shall be sufficient to satisfy the cause of death information required in death certificates under Section 102875 of the Health and Safety Code.

SEC. 37. Section 29965 of the Government Code is amended to read:

29965. Unless prevented by petition protesting the passage of the ordinance, signed and filed with the board pursuant to Division 4 of the Elections Code, the bonds shall be publicly canceled at the time and place fixed, and the clerk of the board of supervisors shall enter on the minutes of the board of supervisors a record of the bonds canceled sufficient to identify them and the fact and date of the cancellation.
SEC. 38. Section 30003 of the Government Code is amended to read:

30003. The bonds shall bear interest at the rate of 5 percent a year and be payable at the time as the board orders, not exceeding 20 years from date of issuance. The bonds shall be signed by the chair of the board of supervisors and the clerk of the board of supervisors.

SEC. 39. Section 36507 of the Government Code is amended to read:

36507. Before entering upon his or her duties, each city officer shall take and file with the city clerk the constitutional oath of office, except that the councilmember elected at the incorporation election shall deposit his or her oath with the county elections official of the county wherein the city is located, to be held by him or her for delivery to the city clerk at the time as the city clerk officially assumes office.

SEC. 40. Section 65009 of the Government Code is amended to read:

65009. (a) (1) The Legislature finds and declares that there currently is a housing crisis in California and it is essential to reduce delays and restraints upon expeditiously completing housing projects.

(2) The Legislature further finds and declares that a legal action or proceeding challenging a decision of a city, county, or city and county has a chilling effect on the confidence with which property owners and local governments can proceed with projects. Legal actions or proceedings filed to attack, review, set aside, void, or annul a decision of a city, county, or city and county pursuant to this division, including, but not limited to, the implementation of general plan goals and policies that provide incentives for affordable housing, open-space and recreational opportunities, and other related public benefits, can prevent the completion of needed developments even though the projects have received required governmental approvals.

(3) The purpose of this section is to provide certainty for property owners and local governments regarding decisions made pursuant to this division.

(b) (1) In an action or proceeding to attack, review, set aside, void, or annul a finding, determination, or decision of a public agency made pursuant to this title at a properly noticed public hearing, the issues raised shall be limited to those raised in the public hearing or in written correspondence delivered to the public agency prior to, or at, the public hearing, except where the court finds either of the following:

(A) The issue could not have been raised at the public hearing by persons exercising reasonable diligence.

(B) The body conducting the public hearing prevented the issue from being raised at the public hearing.
If a public agency desires the provisions of this subdivision to apply to a matter, it shall include in any public notice issued pursuant to this title a notice substantially stating all of the following: “If you challenge the (nature of the proposed action) in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the (public entity conducting the hearing) at, or prior to, the public hearing.”

(3) The application of this subdivision to causes of action brought pursuant to subdivision (d) applies only to the final action taken in response to the notice to the city or clerk of the board of supervisors. If no final action is taken, then the issue raised in the cause of action brought pursuant to subdivision (d) shall be limited to those matters presented at a properly noticed public hearing or to those matters specified in the notice given to the city or clerk of the board of supervisors pursuant to subdivision (d), or both.

(c) (1) Except as provided in subdivision (d), no action or proceeding shall be maintained in any of the following cases by any person unless the action or proceeding is commenced and service is made on the legislative body within 90 days after the legislative body’s decision:

(A) To attack, review, set aside, void, or annul the decision of a legislative body to adopt or amend a general or specific plan. This paragraph does not apply where an action is brought based upon the complete absence of a general plan or a mandatory element thereof, but does apply to an action attacking a general plan or mandatory element thereof on the basis that it is inadequate.

(B) To attack, review, set aside, void, or annul the decision of a legislative body to adopt or amend a zoning ordinance.

(C) To determine the reasonableness, legality, or validity of any decision to adopt or amend any regulation attached to a specific plan.

(D) To attack, review, set aside, void, or annul the decision of a legislative body to adopt, amend, or modify a development agreement. An action or proceeding to attack, review, set aside, void, or annul the decisions of a legislative body to adopt, amend, or modify a development agreement shall only extend to the specific portion of the development agreement that is the subject of the adoption, amendment, or modification. This paragraph applies to development agreements, amendments, and modifications adopted on or after January 1, 1996.

(E) To attack, review, set aside, void, or annul any decision on the matters listed in Sections 65901 and 65903, or to determine the reasonableness, legality, or validity of any condition attached to a variance, conditional use permit, or any other permit.
(F) Concerning any of the proceedings, acts, or determinations taken, done, or made prior to any of the decisions listed in subparagraphs (A), (B), (C), (D), and (E).

(2) In the case of an action or proceeding challenging the adoption or revision of a housing element pursuant to this subdivision, the action or proceeding may, in addition, be maintained if it is commenced and service is made on the legislative body within 60 days following the date that the Department of Housing and Community Development reports its findings pursuant to subdivision (h) of Section 65585.

(d) An action or proceeding shall be commenced and the legislative body served within one year after the accrual of the cause of action as provided in this subdivision, if the action or proceeding meets both of the following requirements:

(1) It is brought in support of or to encourage or facilitate the development of housing that would increase the community’s supply of housing affordable to persons and families with low or moderate incomes, as defined in Section 50079.5 of the Health and Safety Code, or with very low incomes, as defined in Section 50105 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. This subdivision is not intended to require that the action or proceeding be brought in support of or to encourage or facilitate a specific housing development project.

(2) It is brought with respect to actions taken pursuant to Article 10.6 (commencing with Section 65580) of Chapter 3 of this division, pursuant to Section 65589.5, 65863.6, 65915, or 66474.2 or pursuant to Chapter 4.2 (commencing with Section 65913).

A cause of action brought pursuant to this subdivision shall not be maintained until 60 days have expired following notice to the city or clerk of the board of supervisors by the party bringing the cause of action, or his or her representative, specifying the deficiencies of the general plan, specific plan, or zoning ordinance. A cause of action brought pursuant to this subdivision shall accrue 60 days after notice is filed or the legislative body takes a final action in response to the notice, whichever occurs first. A notice or cause of action brought by one party pursuant to this subdivision shall not bar filing of a notice and initiation of a cause of action by any other party.

(e) Upon the expiration of the time limits provided for in this section, all persons are barred from any further action or proceeding.

(f) Notwithstanding Sections 65700 and 65803, or any other provision of law, this section shall apply to charter cities.

(g) Except as provided in subdivision (d), this section shall not affect any law prescribing or authorizing a shorter period of limitation than that specified herein.
SEC. 41. Section 66499.22 of the Government Code is amended to read:

66499.22. A proceeding for exclusion shall be initiated by filing a petition therefor in the offices of the county surveyor and clerk of the board of supervisors of the county in which the subdivision or the portion thereof sought to be excluded is situated. The petition shall accurately and distinctly describe the real property sought to be excluded by reference to the recorded map or by any accurate survey, shall show the names and addresses of all owners of real property in the subdivision or in the portion thereof sought to be excluded as far as the same are known to the petitioners, and shall set forth the reasons for the requested exclusion. The petition shall be signed and verified by the owners of at least two-thirds of the total area of the real property sought to be excluded.

SEC. 42. Section 71081 of the Government Code is amended to read:

71081. Whenever the judge of an existing court would be entitled pursuant to this article to become the judge of more than one court, he or she shall file a written statement with the county elections official electing the judicial office to which he or she will assert his or her claim of eligibility. Failure to file a statement is deemed an election by the judge to assert his or her claim of eligibility to office in the court of the district in which the existing court is located.

SEC. 43. Section 76106 of the Government Code is amended to read:

76106. With respect to any fund established pursuant to this chapter, the penalty amounts to be deposited in the fund shall be specified by resolution adopted by the board of supervisors of each county consistent with the authorizations set forth in this article and Article 3 (commencing with Section 76200). Each resolution shall state that the implementation of the applicable sections is necessary to the county for the establishment of adequate courtroom or criminal justice facilities or other authorized purposes of the fund. The resolution shall set forth the amounts to be placed in the fund and shall instruct the clerk of the board of supervisors to transmit, on the next business day following the adoption of the resolution, a copy of the resolution to the clerk of each court in the county.

SEC. 44. Section 81011.5 of the Government Code is amended to read:
81011.5. Any provision of law to the contrary notwithstanding, the election precinct of a person signing a statewide petition shall not be required to appear on the petition when it is filed with the county elections official, nor any additional information regarding a signer other than the information required to be written by the signer.

SEC. 45. Section 84101 of the Government Code is amended to read:

84101. (a) A committee that is a committee by virtue of subdivision (a) of Section 82013 shall file with the Secretary of State a statement of organization within 10 days after it has qualified as a committee. The committee shall file the original of the statement of organization with the Secretary of State and shall also file a copy of the statement of organization with the local filing officer, if any, with whom the committee is required to file the originals of its campaign reports pursuant to Section 84215. The original and copy of the statement of organization shall be filed within 10 days after the committee has qualified as a committee. The Secretary of State shall assign a number to each committee that files a statement of organization and shall notify the committee of the number. The Secretary of State shall send a copy of statements filed pursuant to this section to the county elections official of each county which he or she deems appropriate. A county elections official who receives a copy of a statement of organization from the Secretary of State pursuant to this section shall send a copy of the statement to the clerk of each city in the county that he or she deems appropriate.

(b) In addition to filing the statement of organization as required by subdivision (a), if a committee qualifies as a committee under subdivision (a) of Section 82013 before the date of an election in connection with which the committee is required to file preelection statements, but after the closing date of the last campaign statement required to be filed before the election pursuant to Section 84200.7 or 84200.8, the committee shall file, by telegram or personal delivery within 24 hours of qualifying as a committee, the information required to be reported in the statement of organization. The information required by this subdivision shall be filed with the filing officer with whom the committee is required to file the originals of its campaign reports pursuant to Section 84215.

(c) If an independent expenditure committee qualifies as a committee pursuant to subdivision (a) of Section 82013 during the time period described in Section 82036.5 and makes independent expenditures of one thousand dollars ($1,000) or more to support or oppose a candidate or candidates for office, the committee shall file by facsimile transmission, online transmission, telegram or personal delivery within 24 hours of qualifying as a committee, the information required to be
reported in the statement of organization. The information required by this section shall be filed with the filing officer with whom the committee is required to file the original of its campaign reports pursuant to Section 84215, and to file at all locations required for the candidate or candidates supported or opposed by the independent expenditures. The filings required by this section are in addition to filings that may be required by Sections 84203.5 and 84204.

(d) For purposes of this section, in calculating whether one thousand dollars ($1,000) in contributions has been received, payments for a filing fee or for a statement of qualifications to appear in a sample ballot shall not be included if these payments have been made from the candidate’s personal funds.

SEC. 46. Section 88001 of the Government Code is amended to read:
88001. The ballot pamphlet shall contain all of the following:
(a) A complete copy of each state measure.
(b) A copy of the specific constitutional or statutory provision, if any, that would be repealed or revised by each state measure.
(c) A copy of the arguments and rebuttals for and against each state measure.
(d) A copy of the analysis of each state measure.
(e) Tables of contents, indexes, art work, graphics and other materials that the Secretary of State determines will make the ballot pamphlet easier to understand or more useful for the average voter.
(f) A notice, conspicuously printed on the cover of the ballot pamphlet, indicating that additional copies of the ballot pamphlet will be mailed by the county elections official upon request.
(g) A written explanation of the judicial retention procedure as required by Section 9083 of the Elections Code.

SEC. 47. Section 5831 of the Harbors and Navigation Code is amended to read:
5831. A certificate issued by the assessor of the county and filed in the proceedings, which states that the name of any signer of the petition appears upon the last equalized assessment-roll of the county for land assessed to him or her and located within the boundaries of the proposed district, is prima facie evidence that the signer is a freeholder within the proposed district.

A certificate signed by the county elections official, which states that the name of any signer of the petition is registered and uncanceled as a voter of the county and that he or she resides within the boundaries of the proposed district, is prima facie evidence that the signer is a registered voter within the proposed district.

SEC. 48. Section 5861 of the Harbors and Navigation Code is amended to read:
5861. This resolution of the board of supervisors shall:
(a) Fix the date of the election which shall be not less than 130 days after the date of the passage of the resolution.
(b) Designate one or more voting precincts and generally describe the boundaries of each precinct.
(c) Designate a place within each precinct at which the polls will be opened for the purpose of the election on the date of the election.
(d) Appoint a board of election for each precinct, consisting of one inspector, one judge, and one clerk, each of whom shall be a registered elector of, and reside within, the precinct for which he or she is appointed.
(e) State the object and purposes for which the indebtedness is proposed to be incurred and the amount of the principal of the indebtedness.
(f) Recite a maximum rate of interest to be paid on indebtedness, not exceeding seven per cent per annum, payable semiannually.
SEC. 49. Section 5863 of the Harbors and Navigation Code is amended to read:
5863. The resolution shall invite the qualified voters residing in the proposed district to vote upon the proposition by marking on the ballot opposite the proposition of the formation of the district and of the incurring of indebtedness thereby.
SEC. 50. Section 5864 of the Harbors and Navigation Code is amended to read:
5864. The ballot to be used at the election shall be substantially in the following form:

HARBOR DISTRICT

OFFICIAL BALLOT

Instructions to voters: To vote in favor of the formation of the harbor district and the incurring of the indebtedness thereby, mark in the voting area at the right of the words “For the harbor district.”

To vote against the formation of the harbor district and the incurring of the indebtedness thereby, mark in the voting area at the right of the words “Against the harbor district.”

All erasures and distinguishing marks are forbidden and make the ballot void. If you wrongly stamp, tear, or deface this ballot, return it to the inspector of election and obtain another.
PROPOSITION

“For the harbor district” (here set forth a general statement of the
purposes for which the indebtedness is to be incurred, and the amount
of the indebtedness).

“Against the harbor district” (here set forth a general statement of the
purposes for which the indebtedness is to be incurred and the amount of
the indebtedness).

SEC. 51. Section 5865 of the Harbors and Navigation Code is
amended to read:

5865. The resolution calling the election shall be published pursuant
to Section 6061 of the Government Code.

The passage of the resolution and its publication constitute the notice
of election and no other notice need be given.

SEC. 52. Section 5866 of the Harbors and Navigation Code is
amended to read:

5866. On the day of the election the polls at each of the polling
places designated by the board of supervisors shall be opened at the hour
of seven o’clock a.m. and shall be kept opened until the hour of eight
o’clock p.m. of the same day, when the polls shall be closed. Any elector
within the polling place or standing in line thereat who has not had an
opportunity to vote and desires to vote shall be permitted to vote after
the hour of eight o’clock p.m. of the day of election.

SEC. 53. Section 5867 of the Harbors and Navigation Code is
amended to read:

5867. When the polls are closed, the board of election in each
precinct shall close the polls in accordance with the election laws of the
state governing general elections, and deposit the ballots with the county
elections official of the county in which the election is held.

SEC. 54. Section 5872 of the Harbors and Navigation Code is
amended to read:

5872. The Secretary of State shall file the certificate in his or her
office, and within five days thereafter shall execute under the great seal
of the State, and transmit to the clerk of the board of supervisors of the
county in which the proceedings were had, a certificate that a harbor
district under the name set forth in the petition has been formed and
exists in that county.

SEC. 55. Section 5873 of the Harbors and Navigation Code is
amended to read:

5873. The clerk of the board of supervisors shall file the certificate
in his or her office and upon the filing of the certificate of the Secretary
of State in the office of the clerk of the board of supervisors, the
formation of the district is complete, and an indebtedness is authorized
in the sum specified in the resolution calling the election.
SEC. 56. Section 5874 of the Harbors and Navigation Code is amended to read:

5874. An action or proceeding shall not be maintained or prosecuted in any court whatever to test or to invalidate the formation of the district or the authorized indebtedness unless it is commenced in a court of competent jurisdiction within 60 days after the date of the filing of the certificate of the Secretary of State in the office of the clerk of the board of supervisors.

SEC. 57. Section 6020 of the Harbors and Navigation Code is amended to read:

6020. At the time and place specified in the notice, the board of supervisors shall consider the petition and may continue the hearing from time to time, not exceeding a period of 90 days.

At the hearing by the board of supervisors a certificate issued by the assessor of the county and filed with the clerk of the board of supervisors in the proceedings stating that the name of any signer of the petition appears upon the last equalized assessment roll of the county for land assessed to that signer and located within the boundaries of the proposed district, is prima facie evidence that the signer is a freeholder within the proposed district.

A certificate signed by the county elections official that the name of any signer of the petition is a registered and uncanceled voter of the county, residing within the boundaries of the proposed district, is prima facie evidence that the signer is a registered voter within the boundaries of the proposed district.

SEC. 58. Section 6031 of the Harbors and Navigation Code is amended to read:

6031. The board of supervisors, by resolution, shall fix the date of the election, which shall not be less than 130 days from the date of its passage and it shall divide the proposed district into one or more voting precincts and generally describe or otherwise designate the boundaries of each precinct and designate a place within each precinct at which the polls will be opened for the purpose of the election on the day of the election.

SEC. 59. Section 6035 of the Harbors and Navigation Code is amended to read:

6035. The ballot to be used at the election shall be substantially in the following form:

(Name) Harbor District Official Ballot

Instructions to voters: to vote in favor of the formation of the harbor district, mark in the voting area at the right of the words “For the harbor district.” To vote against the formation of the harbor district mark in the
voting area at the right of the words “Against the harbor district.” To vote for a candidate for harbor commissioner mark after the name of the candidate; but no more persons shall be voted for than there are offices of harbor commissioner to be filled at this election.

All erasures and distinguishing marks are forbidden and make the ballot void. If you wrongfully stamp, tear or deface this ballot, return it to the inspector of election and obtain another.

“For the harbor district.”
“Against the harbor district.”
“For harbor commissioners.”

SEC. 60. Section 6039 of the Harbors and Navigation Code is amended to read:

6039. When the polls are closed, the board of election in every precinct at the election to be held for the formation of the district, shall close the polls in accordance with the general laws governing the election, and deposit the ballots with the county elections official in the county in which the election is held. At all subsequent elections, the returns shall be deposited with the board.

SEC. 61. Section 6044 of the Harbors and Navigation Code is amended to read:

6044. The clerk of the board of supervisors shall file the certificate in his or her office and from the filing of the certificate of the Secretary of State in the office of the clerk of the board of supervisors, the formation of the district is complete.

SEC. 62. Section 6045 of the Harbors and Navigation Code is amended to read:

6045. An action or proceeding shall not be thereafter maintained or prosecuted in any court whatever to test or to invalidate the formation of the district unless it is commenced in a court of competent jurisdiction within 60 days after the date of the filing of the certificate of the Secretary of State in the office of the clerk of the board of supervisors.

SEC. 63. Section 6053 of the Harbors and Navigation Code is amended to read:

6053. A candidate for harbor commissioner shall be a registered voter of the proposed or existing district, and shall qualify for election by securing a nomination paper proposing his or her candidacy for the office of harbor commissioner signed by not less than 25 but not more than 50 qualified electors of the district.

SEC. 64. Section 6054 of the Harbors and Navigation Code is amended to read:

6054. Any qualified voter in the proposed or existing district may sign as many nomination papers as there are commissioners to be elected.
At the first and any subsequent election for commissioners, all candidates shall file their nomination papers with the county elections official of the county, not more than 113 nor less than 88 days before the day of election.

SEC. 65. Section 6055 of the Harbors and Navigation Code is amended to read:

6055. The commissioners elected at the first election shall, within 10 days from the date of the canvass of the returns of the election, enter upon the duties of office. Before entering upon the duties of his or her office, each commissioner shall take and subscribe the official oath before the secretary or any officer authorized by law to administer oaths and shall file it with the county elections official of the county in which the district is situated.

They shall elect one of their number as president and one of their number as secretary. The president and secretary shall serve during the pleasure of the board.

SEC. 66. Section 6056 of the Harbors and Navigation Code is amended to read:

6056. Each commissioner upon taking the oath of office, and for each term, shall file with the county elections official of the county in which the district is situated, a bond in the sum of five thousand dollars ($5,000), made payable to the district and conditioned on the faithful performance of his or her duties; the bonds are subject to approval by the board of supervisors of the county.

SEC. 67. Section 6230 of the Harbors and Navigation Code is amended to read:

6230. An election shall be held within 130 days of the call, to determine whether the district shall be organized. The election shall be conducted in conformity with the general election laws. At the election the proposition shall be placed on the ballot, permitting each voter to vote “yes” or “no.”

SEC. 68. Section 5053 of the Insurance Code is amended to read:

5053. The duly executed articles of incorporation and a copy of the certificate of the commissioner shall be filed with the Secretary of State in conformity with Section 200 of the Corporations Code. Upon organizing under the articles of incorporation and obtaining from the commissioner a certificate of authority, the county mutual fire insurer may carry on a fire insurance business as provided by this chapter. The term and nature of the certificate of authority, annual renewal fee therefor, the due date and delinquent date of the fee shall be the same as prescribed by Article 3 (commencing with Section 699) of Chapter 1 of Part 2 of Division 1 for stock and mutual insurers governed by that article.
SEC. 69. Section 1170 of the Military and Veterans Code is amended to read:

1170. As used in this chapter, unless the context otherwise indicates:

(a) "District" means a memorial district organized under the provisions of this chapter.

(b) "Board" means the board of directors of a memorial district.

SEC. 70. Section 1174 of the Military and Veterans Code is amended to read:

1174. The petition shall be addressed to the board of supervisors of the county within which the proposed district is situated, shall be signed by the number of qualified registered voters specified in section 1173, and shall propose and set forth:

(a) The formation of a district under this chapter.

(b) The calling by the board of supervisors of a special election to vote upon the question whether the proposed district shall be formed and to elect the first board of directors of the district.

(c) The name of the proposed district, as "____ memorial district."

(d) An accurate description of the boundaries of the proposed district specifying what portion of the territory is incorporated territory and what portion unincorporated territory.

SEC. 71. Section 1176 of the Military and Veterans Code is amended to read:

1176. Within 30 days after the filing of the petition the county elections official shall find and certify whether the petition is signed by the requisite number of qualified registered voters of the proposed district and of the incorporated and unincorporated portions thereof and shall present the petition with the certificate of his or her findings attached thereto to the board of supervisors at its first regular meeting held 10 days from the date of certification of the petition. The board shall fix a time and place for the hearing of the petition not less than 20 days nor more than 40 days after the date of the meeting, and shall direct the clerk of the board to publish a notice once a week for three successive weeks in a newspaper circulated in the territory that it is proposed to organize into a district, and that the board deems most likely to give notice to the inhabitants of the territory.

SEC. 72. Section 1179 of the Military and Veterans Code is amended to read:

1179. The special election shall be held upon a date not later than the 130th day after the meeting of the board at which the petition was presented. At the special election, the proposition submitted shall be "Shall the proposed ____ memorial district be formed?" There shall be elected at the same election a board of directors consisting of five members.
SEC. 73. Section 1180 of the Military and Veterans Code is amended to read:

1180. The special election shall be called, noticed, held, and conducted, election officers appointed, voting precincts designated, candidates nominated, ballots printed, polls opened and closed, ballots counted and returned, returns canvassed, results declared, certificates of election issued, oaths of office administered, and all other proceedings incidental to and connected with the election shall be regulated and done, in accordance with the provisions of law regulating elections conducted pursuant to the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code).

SEC. 74. Section 1181 of the Military and Veterans Code is amended to read:

1181. For the purposes of this chapter the board of supervisors and the county elections official, respectively, shall have all the powers and duties that boards of trustees and city clerks have under Section 1180 and the terms “city,” “municipal election,” “board of trustees,” and “city clerk,” shall mean “proposed memorial district,” “proposed memorial district election,” “board of supervisors,” and “county clerk.”

SEC. 75. Section 1182 of the Military and Veterans Code is amended to read:

1182. If a majority of the votes cast at the special election are in favor of formation of the district, the county elections official shall, within ten days after the board of supervisors has declared the result thereof, record in the office of the county recorder a complete certified copy of the statement of results entered on the minutes of the board of supervisors in accordance with Section 1180, together with a complete certified copy of the petition for formation of the district, except that the signatures on the petition need not be certified and recorded.

SEC. 76. Section 1185 of the Military and Veterans Code is amended to read:

1185. A district may be formed in the manner prescribed by this article that is within an existing memorial district, if, in addition to the petition required by Section 1173, there is filed with the county elections official a verified copy of a resolution by the board of the existing district consenting to the formation of the new district.

SEC. 77. Section 1191 of the Military and Veterans Code is amended to read:

1191. (a) Every district may do all of the following:

(1) Provide and maintain memorial halls, assembly halls, buildings, or meetingplaces, together with suitable indoor and outdoor park and recreation facilities, including swimming pools, picnic areas, and playgrounds, for the use of persons or organizations other than veterans, pursuant to paragraphs (8) and (9), and veteran soldiers, sailors, and
marines who have honorably served the United States in any wars or campaigns recognized by law for the purposes of Section 3 of Article XIII of the California Constitution, or for the use of patriotic, fraternal, or benevolent associations of those persons. However, no district shall provide and maintain indoor and outdoor park and recreation facilities, including swimming pools, picnic areas, and playgrounds, unless these projects have been approved by a majority of the voters at either the general district election or at a special election called for that purpose. The question of whether the district shall provide and maintain indoor and outdoor park and recreation facilities may be submitted to the registered voters of the district by the board on its own motion and shall be submitted by the board upon petition signed by 8 percent of the registered voters of the district, at either the general district election or at a special election called for that purpose. If submitted at a special election, the election shall be called, conducted, governed, and regulated in the same manner as the general district election.

All plans for indoor and outdoor park and recreation facilities, including swimming pools, picnic areas, and playgrounds, shall be approved initially by the board of supervisors.

(2) Purchase, receive by donation, condemn, lease, or acquire real or personal property necessary or convenient for the construction or maintenance of halls, buildings, meetingplaces, and facilities, and improve, preserve, manage, and control these facilities.

(3) Purchase, construct, lease, build, furnish, or repair halls, buildings, meetingplaces, and facilities upon sites owned or leased by the district or made available to the district, and provide custodians, employees, attendants, and supplies for the proper maintenance, care, and management of those halls, buildings, meetingplaces, and facilities.

(4) Furnish sites for halls, buildings, meetingplaces, or facilities, to be built either by the district or by or for patriotic, fraternal, or benevolent associations of veterans, if the funds for these sites are supplied by the district or from other sources.

(5) Enter into agreements with county, municipal, school, park, or other public authorities or agencies conveying, leasing, or making available to the district, either gratuitously or for compensation, sites upon public land for the construction, maintenance, and management by the district of assembly or memorial halls, buildings, meetingplaces, or facilities, and construct and maintain on those sites halls, buildings, meetingplaces, or facilities.

(6) Sell or lease any district property to the highest responsible bidder, as determined by the board, except as provided by Section 1191.3. The board shall, prior to any sale, make a call for bids and advertise that call pursuant to Section 6062 of the Government Code in a newspaper of general circulation in the district, inviting sealed bids for
the sale or lease of the property. The board may either accept the highest responsible bid or reject all bids. The board may require the successful bidder to file with the board good and sufficient undertaking to be approved by the board to insure faithful performance of the contract of sale or lease. No sale or lease shall be transacted, however, if a petition has been filed with the board requesting it not to enter into the sale or lease of the property.

The petition shall have affixed to it, as petitioners, the signatures, indicating place of residence and place of signing, of the registered voters of the district in a number equal to at least 10 percent of the votes cast in the district at the last preceding general election held in the state.

If the petition meets these requirements, as determined by the records of the county elections official for the county or counties in which the district is situated, the board either shall not convey the property or shall submit the matter to the registered voters of the district to be voted upon at the next primary or general election, or at a special election called for the purpose of ratifying or rejecting the action of the district to sell or lease the property.

(7) Sell or lease any district property to any political subdivision, or portion thereof, in which the district is situated for purposes of roads, streets, or highways, or for the improvement of roads, streets, or highways, without regard to the highest responsible bidder but otherwise meeting the petition requirements of paragraph (6).

(8) Adopt, from time to time, reasonable rules and regulations for the use of halls, buildings, meetingplaces, and facilities by veterans or by organizations of veterans, and to allow the halls, buildings, meetingplaces, and facilities to be used for lawful purposes consistent with the objects of this section by persons or organizations other than veterans either free of charge or for stated compensation to aid in defraying the cost of maintenance of the facilities, if that use will not unduly interfere with the reasonable use of the facilities by veterans’ associations.

(9) Enter into a joint powers agreement for recreational or senior citizens’ services within the district.

(b) In conformance with this section, a district may provide recreational facilities or services at any location within the district regardless of the location of district-owned facilities. A district may not increase its tax levy for the purpose of providing recreational services for persons other than veterans unless that increase is first approved by a majority of the registered voters of the district who vote upon the proposal.

SEC. 78. Section 1255 of the Military and Veterans Code is amended to read:
1255. Within 30 days after the filing of the petition the county elections official shall find and certify whether the petition is signed by the requisite number of qualified registered voters of the territory proposed to be annexed and of the incorporated and unincorporated portions thereof and shall present the petition with the certificate of his or her findings attached thereto to the board of supervisors at its first regular meeting held 10 days from the date of certification of the petition. At the regular meeting the board shall ascertain whether the petition in all respects complies with the requirements therefor, except that the certificate shall be conclusive evidence of the sufficiency of the signatures to the petition. If the board finds that the petition complies with the requirements, it shall at the same regular meeting fix a time and place for the hearing of the petition not less than 20 days nor more than 40 days after the date of the meeting, and shall direct the clerk of the board to publish a notice once a week for three successive weeks in a newspaper circulated in the territory that is proposed to be annexed, and that the board deems most likely to give notice to the inhabitants of the territory.

SEC. 79. Section 6005 of the Penal Code is amended to read:

6005. Whenever a person confined to a correctional institution under the supervision of the Department of the Youth Authority is charged with a public offense committed within the confines of that institution and is tried for that public offense, the appropriate financial officer or other designated official of a county or the city finance officer of a city incurring any costs in connection with that matter must make out a statement of all the costs incurred by the county or city for the investigation, and the preparation of the trial, and the actual trial of the case, and of all guarding and keeping of the person, and of the execution of the sentence of the person, properly certified to by a judge of the superior court of the county. The statement shall be sent to the department for its approval. After the approval the department must cause the amount of the costs to be paid out of the money appropriated for the support of the department to the county treasurer of the county or the city finance officer of the city incurring those costs.

SEC. 80. Section 1865 of the Probate Code is amended to read:

1865. If the conservatee has been disqualified from voting pursuant to Section 2208 or 2209 of the Elections Code, upon termination of the conservatorship, the court shall notify the county elections official of the county of residence of the former conservatee that the former conservatee’s right to register to vote is restored.

SEC. 81. Section 4876 of the Public Resources Code is repealed.

SEC. 82. Section 9977 of the Public Resources Code is amended to read:
9977. At least 125 days prior to the day fixed for the general district election, the secretary of the district shall deliver to the county elections official a map and description of the boundaries of the divisions from which directors shall be nominated. The number designated shall equal the number of directors to be elected at that election as determined in accordance with subdivision (d) of Section 9975.

SEC. 83. Section 13021 of the Public Resources Code is repealed.

SEC. 84. Section 11825 of the Public Utilities Code is amended to read:

11825. Not more than 113 days prior to the election, upon request, the county elections official of the principal county containing the majority of the population of the ward from which the candidate is seeking election shall issue nomination papers and all other forms required for nomination to the office of director.

SEC. 85. Section 12816 of the Public Utilities Code is amended to read:

12816. (a) At least 90 days prior to the election provided for in Sections 12815 and 12815.1, notice of the election shall be published within the district. Any voter or group of voters may prepare and file with the county elections official of the county containing the largest number of voters within the district an argument for or against the proposition to be submitted. The argument shall not be greater than 300 words in length. If more than one argument for or more than one argument against the proposition is filed within the time permitted the county elections official shall select one of the arguments for printing. No more than three signatures shall appear with any argument. The county elections official of each county in the district shall mail, or cause to be mailed, to each registered voter in that county in the district one copy of the argument for and one copy of the argument against the proposition. The arguments shall be mailed with the sample ballot.

(b) Based on the time reasonably necessary to prepare and print the arguments and sample ballots for the particular election, the county elections official shall fix and determine a reasonable date prior to the election after which no arguments for or against the proposition may be submitted for printing and distribution to the voters as provided in this section. Notice of the date fixed shall be published by the county elections official pursuant to Section 6061 of the Government Code. Arguments may be changed up to and including the date fixed by the county elections official.

SEC. 86. Section 15702 of the Public Utilities Code is amended to read:

15702. Whenever the people of unincorporated territory desire to organize a district, they shall present to the board of supervisors of the county within which the territory is situated a petition describing the
territory, and signed by registered voters of the territory equal in number to 15 percent of all votes cast for all candidates for Governor within the same territory at the last preceding general election at which a Governor was elected.

SEC. 87. Section 15703 of the Public Utilities Code is amended to read:

15703. The petition may consist of any number of separate instruments, all of which shall constitute one petition. A separate petition is required from each unit of the proposed district. All unincorporated territory participating in the proceedings and situated in one county is a unit for purposes of the proceedings. No registered voter within any one unit of the proposed district shall sign a petition of any other unit of the proposed district.

SEC. 88. Section 15704 of the Public Utilities Code is amended to read:

15704. Each petition shall name or describe the territory within which the registered voters signing it reside. Every petition shall set forth the boundaries and name of the proposed district, which shall include the words “public utility district.” Every petition shall contain a prayer that a public utility district comprising all of the proposed territory, or any portions thereof as are designated in the petitions as essential to its formation, be incorporated pursuant to this division. Every registered voter signing a petition shall write his or her address opposite his signature.

SEC. 89. Section 15705 of the Public Utilities Code is amended to read:

15705. The county elections official shall within 30 days examine and verify the signatures to the petition and certify the result of the examination to the board of supervisors.

SEC. 90. Section 15706 of the Public Utilities Code is amended to read:

15706. If the county elections official, by his or her certificate, finds that a petition is insufficient, he or she shall certify to the number of additional signatures of qualified electors required to make the petition sufficient, and the petition may be amended by a supplemental petition filed within 10 days from the date of the certificate. Within 10 days after a supplemental petition has been filed, the county elections official shall examine it and certify to the result of the examination. If this certificate shows the petition as amended to be insufficient, it shall be filed by the county elections official in his or her office and kept as a public record, without prejudice to the filing of any other petition to the same effect not less than six months thereafter. If the certificate shows the petition or petition as amended to be sufficient, the county elections official shall
present it to the board of supervisors without delay with his or her certificate attached and properly dated.

SEC. 91. Section 15794 of the Public Utilities Code is amended to read:

15794. The board of supervisors shall immediately deposit one roll for filing in the office of the Secretary of State, and cause the other roll to be recorded in the office of the recorder of each county in which any part of the district is situated and filed in the office of the county elections official of the county in which the district, or the greater part of its population, is situated.

SEC. 92. Section 15796 of the Public Utilities Code is amended to read:

15796. No charge shall be made by either the Secretary of State or any county recorder or county elections official for the services required of him or her under this article.

SEC. 93. Section 15842 of the Public Utilities Code is amended to read:

15842. Verification deputies required to verify signatures to petitions for the formation of a district, or to certificates or petitions nominating candidates for election to the first board of directors of newly formed districts, shall be appointed by the county elections official of any county in which the territory of the district is situated, and verification deputies required for any other purpose after the formation of a district shall be appointed by the clerk of the district.

SEC. 94. Section 15956 of the Public Utilities Code is amended to read:

15956. Candidates for directors at large shall be designated in all declarations of candidacy, nominating certificates, and on all official election ballots as candidates for a particular directorship at large, in accordance with the declarations of candidacy which the candidates have filed with the county elections official or the clerk of the district, as the case may be. Each office of director at large shall be designated as “director at large” number one, number two, number three, or number four, there being as many numbers as there are directors at large to be elected.

SEC. 95. Section 26405 of the Public Utilities Code is amended to read:

26405. The petition may include one or more separate documents, but each document shall contain the affidavit of the party who circulated it, certifying that each name signed thereto is the true signature of the person whose name it purports to be. The secretary of the district shall compare the signatures on the petition with the affidavits of registration on file with the county elections official and if he or she finds that the
petition has been signed by the required number of voters he or she shall attach his or her signature thereto and present the petition to the board.

SEC. 96. Section 26654 of the Public Utilities Code is amended to read:

26654. The secretary shall compare the signatures on the petition with the affidavits of registration on file with the county elections official and if he or she finds that the petition has been signed by the required number of voters he or she shall attach his or her signature thereto and present the petition to the board.

SEC. 97. Section 27405 of the Public Utilities Code is amended to read:

27405. The secretary of the district shall compare the signatures on the petition with the affidavits of registration on file with the county elections official and shall certify to the board as to the sufficiency or insufficiency of the petition.

SEC. 98. Section 27424 of the Public Utilities Code is amended to read:

27424. The secretary of the district shall compare the signatures with the affidavits of registration on file with the county elections official and shall certify to the board as to the sufficiency or insufficiency of the petition.

SEC. 99. Section 28746 of the Public Utilities Code is amended to read:

28746. The resolution establishing the election districts shall describe the boundaries of the election districts by reference to a map or maps on file with the district secretary. Immediately upon adoption of the resolution, the secretary shall file a certified copy of the map or maps describing all nine election districts with the Secretary of State and with the county elections official of each county with territory within the boundaries of the district.

SEC. 100. Section 28747 of the Public Utilities Code is amended to read:

28747. Each candidate for the board shall file a declaration of candidacy in the form and manner prescribed in the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code) with the county elections official of the county in which the candidate resides. Candidates for the board shall be residents and voters of the district and of the geographical area making up the election district from which they are to be elected.

SEC. 101. Section 28747.4 of the Public Utilities Code is amended to read:

28747.4. The county elections official of each county within the boundaries of the district shall conduct the election and canvass the returns for those election districts or portions of election districts which
are within the county of his or her jurisdiction as county elections official. After the official canvass has been taken, the county elections official shall report the returns, by election district number, to the board. The board shall declare the results of the election. The secretary of the district shall issue certificates of election, signed by him or her and duly authenticated, to each candidate declared elected, immediately following determination of the results of the election by the board.

SEC. 102. Section 28750.4 of the Public Utilities Code is amended to read:

28750.4. The resolution reestablishing the election districts shall describe the new boundaries of the election districts by reference to a map or maps on file with the secretary of the district. Immediately upon adoption of the resolution, the secretary shall file a certified copy of the resolution and the map or maps describing all election districts with the Secretary of State and with the county elections official of each county with territory within the boundaries of the district.

SEC. 103. Section 29664 of the Public Utilities Code is amended to read:

29664. The secretary of the district shall compare the signatures in the petition with the affidavits of registration on file with the county elections official, and shall certify to the board as to the sufficiency or insufficiency of the petition.

SEC. 104. Section 29714 of the Public Utilities Code is amended to read:

29714. The secretary of the district shall compare the signatures with the affidavits of registration on file with the county elections official, and shall certify to the board as to the sufficiency or insufficiency of the petition.

SEC. 105. Section 31405 of the Public Utilities Code is amended to read:

31405. Upon the filing in his or her office of the certificate of proceedings, the Secretary of State shall, within 10 days, issue a certificate, reciting the filing of those papers in his or her office and the annexation of the corporate area of the city as of the date of the election or the unincorporated county territory to the district. The Secretary of State shall transmit the original of the certificate to the secretary of the district and shall forward a certified copy thereof to the county elections official of each county in which the district or any portion thereof is situated.

SEC. 106. Section 31411 of the Public Utilities Code is amended to read:

31411. Any city whose corporate area is a part of the district and any county with regard to any unincorporated territory which is a part of the district, may apply to the board of directors of the district for consent to
exclude the area from the district. The board of directors may grant or deny the application and in granting the same may fix the terms and conditions upon which a corporate area of the city or the unincorporated county territory may be excluded from the district. The terms and conditions shall include, without limitation, exclusion of the city or unincorporated county territory, as the case may be, from representation on the board or in an advisory capacity to the board. The action of the board of directors evidenced by resolution shall be promptly transmitted to the governing body of the applying city or board of supervisors and if the action shall grant consent to the exclusion the governing body of the city or the board or supervisors of the county, as the case may be, may submit to the electors of the city or the unincorporated county territory at any general or special election the proposition of excluding from the district the corporate area of the city or the unincorporated county territory. Notice of the election shall be given in the manner provided in Section 31402. The election shall be conducted and the returns thereof canvassed in the manner provided by law for the conduct of elections in the city or county. In the event that the majority of the electors voting thereon vote in the favor of the withdrawal, the result thereof shall be certified by the governing body of the city or the board of supervisors of the county to the board of directors of the district. A certificate of the proceedings hereunder shall be made by the secretary of the district and filed with the Secretary of State, and upon the filing of the certificate the corporate area of the city or the unincorporated county territory shall be excluded from the district, and shall no longer be a part thereof; provided, however, that the property within the city as the city shall exist at the time of the exclusion, or within the unincorporated county territory shall continue taxable pursuant to Section 30981. Upon the filing in his or her office of the certificate of proceedings the Secretary of State shall, within 10 days, issue a certificate, reciting the filing of the papers in his or her office and the exclusion of the corporate area of the city or the unincorporated county territory from the district. The Secretary of State shall transmit the original of his or her certificate to the secretary of the district and shall forward a certified copy thereof to the county elections official of each county in which the district or any portion thereof is situated.

SEC. 107. Section 50033 of the Public Utilities Code is amended to read:

50033. The County Elections Official of the County of San Joaquin shall compare the signatures to the petition with the affidavits of registration and certify to their sufficiency or insufficiency.

SEC. 108. Section 50039 of the Public Utilities Code is amended to read:
50039. The election shall be called by publishing notice calling the election pursuant to Section 6066 of the Government Code not less than 20 days before the election. The notice need only specify the time and place of the election, the hours during which the polls will be open, the purpose of the election, and the description of the exterior boundaries of the proposed district as determined by the board of supervisors.

No notice of the election other than the notice prescribed by this section need be given except that the county elections official shall mail notice of the polling place and the purpose of the election to each qualified elector of the proposed district.

SEC. 109. Section 70033 of the Public Utilities Code is amended to read:

70033. The County Elections Official of the County of Marin shall compare the signatures to the petition with the affidavits of registration and certify to their sufficiency or insufficiency.

SEC. 110. Section 90773 of the Public Utilities Code is amended to read:

90773. The petition may include one or more separate documents, but each document shall contain the affidavit of the party who circulated it, certifying that each name signed thereto is the true signature of the person whose name it purports to be. The secretary of the district shall compare the signatures on the petition with the affidavits of registration on file with the county elections official and if he or she finds that the petition has been signed by the required number of voters he or she shall attach his or her signature thereto and present the petition to the board.

SEC. 111. Section 90933 of the Public Utilities Code is amended to read:

90933. The secretary shall compare the signatures on the petition with the affidavits of registration on file with the county elections official and if he or she finds that the petition has been signed by the required number of voters he or she shall attach his or her signature thereto and present the petition to the board.

SEC. 112. Section 95163 of the Public Utilities Code is amended to read:

95163. The County Elections Official of the County of Santa Barbara shall compare the signatures to the petition with the affidavits of registration and certify to their sufficiency or insufficiency.

SEC. 113. Section 95194 of the Public Utilities Code is amended to read:

95194. The election shall be called by publishing notice calling the election pursuant to Section 6066 of the Government Code not less than 20 days before the election. The notice need only specify the time and place of the election, the hours during which the polls will be open, the
purpose of the election, and the description of the exterior boundaries of
the proposed district as determined by the board of supervisors.

No notice of the election other than the notice prescribed by this
section need be given except that the county elections official shall mail
notice of the polling place and the purpose of the election to each
qualified elector of the proposed district.

SEC. 114. Section 98043 of the Public Utilities Code is amended to
read:

98043. The County Elections Official of the County of Santa Cruz
shall compare the signatures to the petition with the affidavits of
registration and certify to their sufficiency or insufficiency.

SEC. 115. Section 98100 of the Public Utilities Code is amended to
read:

98100. The district shall be governed by a board of directors of
seven members, which may be increased to 9 or 11 members if the board
finds that an increase in the membership of the board is necessary to
insure adequate representation to all of the areas in the County of Santa
Cruz served by the district. The membership shall be composed of one
member appointed by the City Council of Santa Cruz, one member
appointed by the City Council of Capitola, one member appointed by the
City Council of Scotts Valley, one member appointed by the City
Council of Watsonville, one member appointed by the governing bodies
of any other incorporated areas in the county within the district to
represent those incorporated areas, one member appointed by the Board
of Supervisors of the County of Santa Cruz, and other members to be
appointed by the above entities in accordance with their proportionate
population within the district. However, the membership of the board
shall not exceed the number determined by the board.

The apportionment shall be based upon the population distribution
within the district, and the board shall reapportion its membership
whenever any part of the district is excluded or new territory is added or
unincorporated territory within the district incorporates, and, as a result
of the exclusion, annexation, or incorporation, representation on the
board no longer reflects the population distribution within the district.
The board shall also reapportion whenever the county elections official
advises the board that the latest official census indicates a need for
reapportionment.

SEC. 116. Section 101170 of the Public Utilities Code is amended
to read:

101170. The treasurer of the district, if one is appointed by the
board, shall give bond for the faithful performance of his or her duties.
The board may require any other officer to give a similar bond. The
amount of each bond shall be fixed by the board. All bonds shall be
approved by the board and shall be recorded in the office of the county recorder and filed in the office of the clerk of the district.

SEC. 117. Section 101285 of the Public Utilities Code is amended to read:

101285. Whenever any petition signed by voters within the district equal in number to at least 15 percent of the total vote cast within the district at the last general statewide election is presented to the board asking for the acquisition, construction, or completion of the whole, or any portion, of any transit facilities or for acquiring any works, lands, structures, rights, equipment, or other property necessary or convenient to carry out the objects, purposes, or powers of the district, and also asking that a bonded indebtedness be incurred to pay for the cost thereof, the secretary of the district shall forthwith transmit the petition to the county elections official for certification.

SEC. 118. Section 101286 of the Public Utilities Code is amended to read:

101286. Within 30 days after the receipt of the petition, the county elections official shall examine the petition and determine the number of valid signers thereof by comparing the signatures thereon with the signatures of registered voters as appear on the affidavits of voter registration on file with him or her. The county elections official then shall certify to the secretary of the district all the following:

(a) The total number of voters registered within the district at the time of the last general statewide election immediately preceding the filing of the petition.

(b) The total number of registered voters of the district who have signed the petition.

(c) The percentage which the number of such signers bears to the total number of voters registered to vote within the district at such time.

SEC. 119. Section 101287 of the Public Utilities Code is amended to read:

101287. If the county elections official certifies that the percentage of registered voters signing the petition is less than that required by Section 101284, a supplemental petition may be presented to the secretary of the district within 30 days after the county elections official’s certification of the first petition. The supplemental petition shall thereupon be processed as provided in Sections 101284 and 101285.

SEC. 120. Section 101295 of the Public Utilities Code is amended to read:

101295. If the ordinance calling the election so provides, the election shall be conducted by the county elections official in accord with the manner of holding the election prescribed by the board pursuant to the provisions of Section 101289.
SEC. 121. Section 909 of the Streets and Highways Code is amended to read:

909. No agreement entered into by the board of supervisors for the purchase, hire, or rental of any apparatus used in the construction, improvement, or maintenance of highways shall create a charge against the county, unless the agreement complies with all of the following:
(a) The agreement is in writing.
(b) The writing is signed by the chair of the board of supervisors.
(c) A copy of the writing is certified by and filed with the clerk of the board of supervisors.

All of these writings and copies are public documents.

If a county purchases, hires, or rents any apparatus specified herein pursuant to a local purchasing ordinance, including competitive bidding procedures, it does not have to comply with subdivisions (a), (b), and (c) herein to create a charge against the county. Compliance with the local purchasing ordinance shall be sufficient to create a charge against the county for said purchase, hire, or rental.

SEC. 122. Section 1181 of the Streets and Highways Code is amended to read:

1181. The notice of election shall contain:
(a) The time and place of holding the election.
(b) The boundaries of the election districts. No election precinct shall be partly in each of two or more districts.
(c) The names of three judges for each election district, to conduct the election.
(d) The hours, which shall not be less than eight, during which the polls will be open.
(e) The amount and denomination of the bonds, the rate of interest, and the greatest number of years for which the last-maturing bonds will run.
(f) The purpose for which the proceeds of the bonds are to be used, including a brief description of the proposed work and the materials to be used.
(g) The signature of the chair of the board, attested by the clerk of the board of supervisors.

SEC. 123. Section 1186 of the Streets and Highways Code is amended to read:

1186. The interest on the bonds shall be payable annually. Each bond and each coupon shall bear the signature or facsimile printed signature of the chair of the board and of the clerk of the board of supervisors. The county treasurer shall, after reasonable notice, sell the bonds to the highest and best bidder, but not for less than par plus any accrued interest.
SEC. 124. Section 3111 of the Streets and Highways Code is amended to read:

3111. On the original and on at least one copy of the map of the district, the clerk of the legislative body shall endorse his or her certificate evidencing the date and adoption of the resolution or ordinance describing the proposed boundaries of the district. The clerk of the legislative body shall file the original of the map in his or her office and, within 15 days after the adoption of the resolution or ordinance fixing the time and place of the hearing on the formation or extent of the district and in no event later than 15 days prior to the hearing, shall file a copy thereof with the county recorder of each county in which all or any part of the proposed district is located upon payment of the filing fee.

SEC. 125. Section 3112.5 of the Streets and Highways Code is amended to read:

3112.5. The clerk of the board of supervisors of any county in whose office maps of proposed districts are filed shall transmit the maps to the county recorder, who shall receive the maps with the same effect and manner as maps filed with the county recorder pursuant to Section 3112.

SEC. 126. Section 3114 of the Streets and Highways Code is amended to read:

3114. (a) This section applies only to assessment districts.

(b) After the confirmation by the legislative body of any assessment, the clerk of the legislative body shall file, in the office of the county recorder, a copy of the assessment diagram.

(c) The assessment diagram shall be prepared by the engineer responsible for engineering work. The assessment diagram shall be legibly drawn, and at least one copy shall be printed or reproduced by a process that provides a permanent record. Each sheet of paper or other material used for the permanent record map shall be 18 by 26 inches in size, shall clearly show the particular number of the sheet, the total number of sheets comprising the map, its relation to each adjoining sheet, and shall have encompassing its border a line that leaves a blank margin one inch in width.

The map shall be labeled substantially as follows: Assessment Diagram, (here insert name or number of district) Assessment District, (here insert city and name of county thereafter), State of California.

The map shall also have legends reading substantially as follows:

(1) Filed in the office of the (clerk of the legislative body), this ____ day of ____ , 20__ .

(Clerk of the legislative body)
(2) Recorded in the office of the (superintendent of streets) this ____
day of ____, 20__.  

(Superintendent
of Streets)

(3) An assessment was levied by the city council (or other appropriate
legislative body) on the lots, pieces, and parcels of land shown on this
assessment diagram. The assessment was levied on the ____ day of
____, 20__; the assessment diagram and the assessment roll were
recorded in the office of the superintendent of streets of that city on the
____ day of ____, 20__. Reference is made to the assessment roll
recorded in the office of the superintendent of streets for the exact
amount of each assessment levied against each parcel of land shown on
this assessment diagram.

(Clerk of the
legislative
body)

(4) Filed this ____ day of ____, 20__, at the hour of ____ o’clock _m.
in Book ____ of Maps of Assessment and Community Facilities
Districts at page ____, in the office of the county recorder of the County
of ____, State of California.

(County
Recorder of
County of
_______)

(d) The clerk of the legislative body shall file a copy of the assessment
diagram referred to in subdivision (c) in the office of the county recorder
of the county in which all or any part of the assessment district shown
on the assessment diagram is located upon payment of the filing fee. The
filing of the assessment diagram shall be made by the clerk of the
legislative body.

(e) The county recorder shall endorse upon the assessment diagram
filed with him or her, pursuant to subdivision (d), the time and date of
filing and shall fasten it securely in the “Book of Maps of Assessment
and Community Facilities Districts’” in which the county recorder is
obligated to keep boundary maps under Section 3112. The county
recorder shall cross-index the assessment diagram by reference to the
city conducting the proceedings and by reference to the page of the book
of maps of assessment and community facilities districts in which the boundary map of the district was filed in the book.

(f) After the confirmation by the legislative body of any assessment and the recording of the assessment and diagram in the office of the street superintendent or other officer of the city in whose office the assessment and diagram have been recorded, the clerk of the legislative body shall execute and record a notice of assessment in the office of the county recorder of each county in which all or any part of the assessment district is located. The notice of assessment shall be in substantially the following form:

NOTICE OF ASSESSMENT

Pursuant to the requirements of Section 3114 of the Streets and Highways Code, the undersigned clerk of the legislative body of ____, State of California, hereby gives notice that a diagram and assessment were recorded in the office of the ____ of that city as provided for in Section 3114 of the Streets and Highways Code, and relating to the following described real property:

(The real property in the assessment district may be described by: (a) stating its exterior boundaries; or (b) describing the property according to any official or recorded map; or (c) referring to the assessment diagram filed in accordance with subdivisions (d) and (e) of Section 3114 and the book and page number in the office of the county recorder of the filed plat or map.)

Notice is further given that upon the recording of this notice in the office of the county recorder, the several assessments assessed on the lots, pieces, and parcels shown on the filed assessment diagram shall become a lien upon the lots or portions of lots assessed, respectively.

Reference is made to the assessment diagram and assessment roll recorded in the office of the ____ of that city.

Dated: __________

If the assessment district is located in two or more counties, the assessment notice, in lieu of the paragraph following the description of the property, shall state:

Notice is further given that the above-described real property is located in the Counties of ____ and ____ and upon the recording of this notice in the office of the county recorder of all those counties, effective upon the date of the last recording, the several assessments on the lots,
pieces, and parcels shown on the filed assessment diagram shall become a lien upon the lots or portions of lots assessed, respectively.

SEC. 127. Section 5026 of the Streets and Highways Code is amended to read:

5026. The legislative body of a county, city or city and county, may by resolution adopt a name for any street, boulevard, park or place which is to be improved under this division, for which a name has not been provided under the provisions of Sections 970.5 and 971, or otherwise, and may by resolution change the name of any street, boulevard, park or place heretofore established; provided further, that a copy of the resolution or order providing for the new name or change of name made by any city shall be promptly forwarded by the city clerk to the clerk of the board of supervisors and county surveyor of the county in which the municipality is situated.

SEC. 128. Section 8653 of the Streets and Highways Code is amended to read:

8653. The bonds shall be signed by the treasurer and the clerk of the legislative body. However, the legislative body may by order authorize the use upon the bonds of an engraved, printed, or lithographed signature of the treasurer and the clerk of the legislative body in place of a signature by hand. It may also authorize the seal to be placed in like manner on the bonds.

SEC. 129. Section 9019 of the Streets and Highways Code is amended to read:

9019. “Clerk” means:
(a) When used with reference to a county, the clerk of the board of supervisors.
(b) When used with reference to a city, the person who is or acts as clerk of the legislative body of the city.

SEC. 130. Section 11302 of the Streets and Highways Code is amended to read:

11302. A copy of the resolution shall be mailed, not less than 45 days prior to the hearing to each person to whom any of the following described lands is assessed as shown on the last equalized assessment roll, at his or her address as shown upon that roll, and to any person, whether owner in fee or having a lien upon, or legal or equitable interest in, any of those lands whose name and address and a designation of the land in which he or she is interested is on file in the office of the city clerk or clerk of the board of supervisors, as the case may be. Those lands are as follows:
(a) All parcels of land abutting upon any portion of the pedestrian mall or any portion of any intersecting street.
(b) If assessments are to be levied as contemplated by Section 11202, then the notice procedures shall comply with Section 53753 of the Government Code.

The legislative body may determine that the resolution shall also be mailed to other persons as it may specify.

SEC. 131. Section 19090 of the Streets and Highways Code is amended to read:

19090. Within 30 days after acquiring jurisdiction to proceed, the board of supervisors shall by resolution order that an election be held in the proposed district to determine whether or not the district shall be formed. The board may establish one or more voting precincts within the district and appoint one inspector, one judge, and two clerks residing in the district for each voting precinct to conduct the election, which shall be held on the next established election date not less than 130 days after the date of the resolution ordering it to be held.

SEC. 132. Section 19092 of the Streets and Highways Code is amended to read:

19092. The election shall be conducted in accordance with the general election laws of this state, where applicable. The ballots shall contain the words, “For lighting district,” and “Against lighting district,” and the voter shall mark his or her ballot in the space provided for that purpose, in accordance with the general election laws of this state.

SEC. 133. Section 19093 of the Streets and Highways Code is amended to read:

19093. Every registered voter in the jurisdiction shall be entitled to vote at this election.

SEC. 134. Section 19094 of the Streets and Highways Code is amended to read:

19094. The precinct boards shall canvass the votes in accordance with the general laws of this state. The board of supervisors may order the county elections official to conduct the official canvass within seven days subsequent to the holding of the election.

SEC. 135. Section 25206 of the Streets and Highways Code is amended to read:

25206. The matter may be submitted at a special election called for that purpose or may be consolidated with any other election involving the entire county. All laws governing county elections shall apply to the election in so far as they may be applicable. The notice of election, in addition to the matters otherwise required, shall refer to the report of the project, a copy of which shall be on file in the office of the county elections official.

SEC. 136. Section 27044 of the Streets and Highways Code is amended to read:
27044. The copies of the petition from each county shall be grouped or fastened together and submitted to the county elections official of that county for examination and verification. The county elections official shall have 30 days’ time for the examination of the copies of the petition left with him or her for verification. Within that period of time he or she shall verify each of the signatures on the copies of the petition left with him or her, attach thereto his or her certificate that the copies of the petition have been signed by the requisite number of registered voters and forward the copies of the petition with his or her certificate attached to the Secretary of State.

SEC. 137. Section 27045 of the Streets and Highways Code is amended to read:

27045. If the county elections official finds that the copies of the petition are not signed by the requisite number of registered voters residing within the county he or she shall certify to the number of registered voters required to make the petition sufficient. Within 20 days from the date of that certificate, copies of the petition containing additional signatures secured either by the same persons theretofore appointed to secure signatures or by other persons appointed by the board of supervisors for that purpose may be filed with the county elections official.

SEC. 138. Section 27046 of the Streets and Highways Code is amended to read:

27046. The county elections official shall within 30 days after the filing of the supplemental copies of the petition examine and verify each of the signatures thereon and certify to the result of the examination as he or she did in connection with the original copies of the petition.

SEC. 139. Section 27047 of the Streets and Highways Code is amended to read:

27047. If the petition as supplemented contains a sufficient number of signatures the county elections official shall present it with the certificate to that effect attached to the Secretary of State without delay.

SEC. 140. Section 27048 of the Streets and Highways Code is amended to read:

27048. If the certificate of the county elections official shows that any petition as originally filed or as supplemented is insufficient he or she shall so certify and the petition with the certificate attached shall be filed with the Secretary of State and kept by the Secretary of State as a public record, without prejudice however, to the filing of a new petition to the same effect.

SEC. 141. Section 27062 of the Streets and Highways Code is amended to read:
27062. The election shall be called and held in accordance with the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code).

SEC. 142. Section 27063 of the Streets and Highways Code is amended to read:

27063. The county elections official shall certify the results of the election to the Secretary of State together with a copy of the action of the board of supervisors calling the election.

SEC. 143. Section 27080 of the Streets and Highways Code is amended to read:

27080. If, within 120 days after application is made to it the board of supervisors of any county named in the petitions from other counties engaged in the formation of the district fails to adopt an ordinance of intention to unite with the other counties in the formation of the district, and no proceedings for the adoption of an ordinance under the provisions of law relating to the initiative are on file with the county elections official, the county elections official shall upon receipt of an affidavit of an elector of the county, setting forth: (a) The date the original application was made to the board of supervisors and (b) the failure of that body to act thereon for 60 days thereafter, issue a certificate to the Secretary of State certifying that on the date of the issuing thereof no proceedings have been filed in his or her office to submit an ordinance to the electors under the provisions applicable to the initiative. The county elections official shall immediately transmit the certificate and affidavit to the Secretary of State.

SEC. 144. Section 27082 of the Streets and Highways Code is amended to read:

27082. If an ordinance declaring it to be the intention of a county to become part of the district has been submitted to the people and has failed to be adopted, that fact shall be certified to the Secretary of State by the county elections official, and that county shall be excluded from the district.

SEC. 145. Section 27100 of the Streets and Highways Code is amended to read:

27100. When all of the petitions, or certifications of the result of elections have been received from the county elections officials of the counties having any portion of their territory within the boundaries of the proposed district the Secretary of State shall publish the text of the petition, together with a notice fixing the time within which protests against the inclusion of property within the proposed district may be filed.

SEC. 146. Section 27102 of the Streets and Highways Code is amended to read:
27102. Neither the names attached to the petition, nor the
certificates of any of the county elections officials, need be published
with the petition. It shall be sufficient to state that the petition has been
signed by a certain number of electors, naming it, and duly verified by
the county elections official of the county in which the petition was
circulated.

SEC. 147. Section 27109 of the Streets and Highways Code is
amended to read:

27109. After the judgment of the court has become final the county
elections official shall certify the judgment together with the petition and
the protests which he or she received, to the Secretary of State.

SEC. 148. Section 27123 of the Streets and Highways Code is
amended to read:

27123. Those directors appointed by the board of supervisors of a
county shall be appointed by resolution of the board of supervisors, and
a copy of the resolution shall be filed with the clerk of the board of
supervisors, and a certified copy of the resolution shall be immediately
forwarded to the Department of Transportation.

SEC. 149. Section 27322 of the Streets and Highways Code is
amended to read:

27322. If the board consents to the annexation after any bonded debt
of this district has been authorized, the board of supervisors so applying
for annexation shall call an election at which the proposition to join the
district and assume the obligation of the bonds of the district along with
the territory already included therein, shall be submitted to the electors
of the county or portion thereof as one proposition. Unless the
proposition receives two-thirds of the vote cast at the election the county
or part thereof shall not be annexed to the district. If the proposition
carries by two-thirds or more of the votes cast at the election the result
of the election shall be certified to the Secretary of State by the county
elections official and thereupon the Secretary of State shall give notice
and call for protests in the same manner as upon the original
incorporation of the district.

SEC. 150. Section 9368 of the Water Code is amended to read:

9368. Affidavits of publication and posting of the notices shall be
filed with the county elections official of the county in which the notices
have been posted or published, together with a copy of the order calling
the election certified to by the secretary or assistant secretary of the
board.

SEC. 151. Section 9386 of the Water Code is amended to read:

9386. At the close of the polls the board of election shall deliver to
the elections official all ballots, voting lists, lists of ballots cast at the
election, and all documents and paper used at the election. The county
elections official shall do both of the following:
(a) Proceed to canvass the votes and declare the result.
(b) Prepare a certificate showing the result and the number of votes cast for and against the issuing of bonds to the board.

SEC. 152. Section 20740 of the Water Code is amended to read:
20740. The petition and a notice of the time of the meeting at which it will be presented shall be published for at least two weeks before the time at which it is to be presented. Publication shall be in a newspaper of general circulation printed and published in the principal county and in a newspaper published in each other affected county. The notice shall be signed by the county elections official of the principal county.

SEC. 153. Section 20911 of the Water Code is amended to read:
20911. The precinct board for the formation election shall be appointed, candidates for the offices of the proposed district shall be nominated, ballots and other supplies shall be provided and the election shall be conducted as nearly as practicable in accordance with the provisions concerning general elections except as to:
(a) Notice of the election.
(b) Nominating petitions, which may be filed with the clerk of the board of supervisors not less than 15 days before the election.
(c) Mailing of sample ballots, which mailing to each voter entitled to vote at the election, as determined by the county elections official, shall be completed at least three whole days before the election.
(d) Other inconsistent provisions in this chapter.

SEC. 154. Section 22970.10 of the Water Code is amended to read:
22970.10. The governing body shall certify the two candidates who receive the highest number of votes for the elective office to the county elections official as the candidates in the runoff election.

SEC. 155. Section 22970.20 of the Water Code is amended to read:
22970.20. Not less than seven days before any runoff election, any voter entitled to vote by absent voter ballot as provided in Section 23531 may file with the county elections official, either in person or by mail, his or her written application for an absent voter’s ballot. Absent voting shall be conducted in accordance with the provisions of Section 23531.

SEC. 156. Section 22970.25 of the Water Code is amended to read:
22970.25. The county elections official shall commence the canvass of the returns on the first Wednesday after each runoff election.

SEC. 157. Section 30061 of the Water Code is repealed.

SEC. 158. Section 30230 of the Water Code is amended to read:
30230. The county elections official of the county containing the proposed district shall publish a notice of a hearing on the formation petition once a week for at least two weeks before the time when the petition is to be presented and considered in at least one, but not to exceed three, newspapers printed and published in the county.

SEC. 159. Section 30778 of the Water Code is amended to read:
30778. The county elections official shall cause the ballots to be printed, bound, and numbered as provided in the Elections Code, except as otherwise required in this division.

SEC. 160. Section 31133 of the Water Code is amended to read:

31133. Notwithstanding any other provision of law, the Malaga County Water District may:

(a) Organize, promote, conduct, and advertise programs of community recreation.

(b) Establish systems of recreation and recreation centers, including parks and parkways.

(c) Acquire, construct, improve, maintain and operate recreation centers within the district.

The district shall not incur a bonded indebtedness for the purposes authorized by this section exceeding 1 percent of the assessed value of all the taxable property in the district, and no bonded indebtedness shall be incurred except for capital outlay purposes.

The district shall not exercise any powers under this section unless the exercise of those powers is approved by the voters of the district at an election held within the district at which a majority of the voters voting on the proposition approve the exercise of those powers. The election may be consolidated with any other election held within the district. If a majority of the votes cast at the election is in favor of the proposition, the county elections official shall immediately cause to be filed with the Secretary of State a certificate reciting that fact. If the voters of the district do not approve the exercise of any of those powers at an election held prior to January 1, 1974, this section shall become inoperative on that date and shall have no further force or effect.

SEC. 161. Section 34053 of the Water Code is amended to read:

34053. No supervisor, auditor, or county elections official of any county shall receive any fee for any service required to be performed by him or her under the provisions of this division provided, however, that the county elections official shall be compensated for the expense of the conduct of the election.

SEC. 162. Section 35005 of the Water Code is amended to read:

35005. No appointment of a proxy shall be valid, accepted, or vote allowed thereon at any district election unless it meets all of the following requirements:

(a) It is in writing.

(b) It is executed by the person or legal representative of the person who, in accordance with the provisions of Sections 35003 or 35003.1 is entitled to the votes for which the proxy is given.

(c) It is acknowledged or certified in accordance with Section 2015.5 of the Code of Civil Procedure.
(d) It specifies the election at which it is to be used. An appointment of a proxy shall be used only at the election specified.

(e) It shall be on a form as specified by the county elections official meeting the above requirements.

Every appointment of a proxy is revocable at the pleasure of the person executing it at any time before the person appointed as proxy shall have cast a ballot representing the votes for which the appointment was given.

SEC. 163. Section 35048 of the Water Code is amended to read:

35048. The petition shall be filed with the county elections official of the principal county at least six months prior to the date of the next general district election.

SEC. 164. Section 35049 of the Water Code is amended to read:

35049. The signatures to the petition shall be verified as follows:

(a) If the district is wholly in one county, the county elections official shall examine the signatures and from the records of registration ascertain whether or not the petition is signed by the requisite number of registered voters.

(b) If the district is situated in more than one county, each county elections official shall examine that portion of the petition bearing signatures obtained in that county and from the records of registration ascertain the number of signatures of registered voters in that portion of the district lying in that county. The county elections official of a county other than the principal county shall prepare a certificate, and file the same with the county elections official of the principal county, showing the number of valid signatures of registered voters in that county who signed the petition, and shall also show the total number of registered voters in that county within the district on the date of filing the petition.

(c) The county elections official of the principal county shall attach to the petition a certificate showing the total number of valid signatures thereon, and the total number of registered voters within the district as of the date of filing the petition.

SEC. 165. Section 35050 of the Water Code is amended to read:

35050. If the number of signatures is not sufficient, a supplemental petition, in the form of a duplicate petition, but bearing additional signatures, may be filed with the county elections official of the principal county within 10 days from the date on which the county elections official of the principal county certified the results of the examination. The supplemental petition shall be verified in the same manner as the original petition. If the signatures on the petition are still insufficient, no action shall be taken thereon. The petition shall remain on file as a public record and failure to secure sufficient signatures shall not prejudice the later filing of an entirely new petition.

SEC. 166. Section 35051 of the Water Code is amended to read:
35051. If the petition contains at least 25 valid signatures and if the total number of valid signatures on the petition constitutes 25 percent or more of the registered voters within the district as of the date of filing the petition, the county elections official of the principal county shall prepare a certificate to that effect, attach the same to the petition, and deliver, by mail or personal delivery, the petition and the certificate to the secretary of the district.

SEC. 167. Section 35052 of the Water Code is amended to read:

35052. At the next regular meeting following the delivery by the county elections official of the petition and the certificate to the secretary of the district, the board of directors shall adopt a resolution reciting the delivery of the petition and certificate and specifying that all future elections in the district shall be conducted as a resident voting district, rather than a landowner voting district.

SEC. 168. Section 35053 of the Water Code is amended to read:

35053. The secretary of the district shall file with the county elections official of each county in which any portion of the district is located, a certified copy of the resolution. The secretary shall cause a copy of the resolution to be published once a week for three successive weeks in a newspaper of general circulation used for the publication of district notices.

SEC. 169. Section 41303 of the Water Code is amended to read:

41303. Affidavits of the publication and posting of the election notices shall be filed with the county elections official of each affected county, together with a copy of the order calling the election, certified by the president, and duplicates shall be filed with the board.

SEC. 170. Section 45274 of the Water Code is amended to read:

45274. The board of election shall deliver a certificate showing the result and the number of votes cast for and against the issuing of the bonds to the county elections official of each county, and a duplicate to the board of directors.

SEC. 171. Section 45275 of the Water Code is amended to read:

45275. The board of election shall deliver to the county elections official of each county all ballots cast at the election within that county and all documents and papers used at the election.

SEC. 172. Section 45276 of the Water Code is amended to read:

45276. The county elections officials of the respective counties shall immediately upon receipt of the ballots, papers, and documents from the board of election certify to the board of directors at its office a statement of the result of the election held in each of the counties with a statement of the number of votes for the proposition of “Bonds—Yes” and opposed “Bonds—No.”

SEC. 173. Section 50752 of the Water Code is amended to read:
50752. The election board shall canvass the votes cast and issue certificates of election to the persons elected, and shall place the ballots, when canvassed, in a sealed envelope and forward it to the county elections official.

SEC. 174. Section 50805 of the Water Code is amended to read:
50805. An affidavit of the publication and posting of the notice shall be filed with the county elections official, with a copy of the order calling the election which is certified by the president.

SEC. 175. Section 50816 of the Water Code is amended to read:
50816. At the close of the polls the election board shall:
(a) Immediately canvass the votes and declare the result.
(b) Forward a certificate showing the result and the number of votes cast for and against the issuing of bonds or refunding bonds to the county elections official.
(c) Deliver a copy of the certificate to the board.
(d) Deliver all ballots cast and all documents and papers used at the election to the county elections official.

SEC. 176. Section 50817 of the Water Code is amended to read:
50817. Any interested person may contest a special election within 20 days after the filing of the certificate with the county elections official by bringing suit in the superior court of the principal county. Unless contested, the declaration of the result by the election board is final and conclusive.

SEC. 177. Section 50954 of the Water Code is amended to read:
50954. The clerk shall receive for his or her services a yearly sum equal to one and one-half cents ($0.015) per acre based on the net acreage of the district as indicated by the records of the district, or, if the net acreage is not obtainable from the records of the district, based upon the records of the county elections official or, if the district has outstanding bonds it shall pay the clerk three cents ($0.03) per acre.

SEC. 178. Section 60049 of the Water Code is repealed.
SEC. 179. Section 60080 of the Water Code is amended to read:
60080. A petition, which may consist of any number of separate instruments, shall be filed with the county elections official of the principal county in which the proposed water replenishment district is located, signed by registered voters residing within the boundaries of the proposed district equal in number to at least 10 percent of the number of the voters residing within the proposed district; provided, that where the proposed district is situated partly in different counties, the petition must be signed by at least 10 percent of the voters of each area situated within each county, and each petition shall clearly designate in which affected county it was circulated, and each petition shall contain names only of the voters of the affected county in which the petition was circulated.

SEC. 180. Section 60082 of the Water Code is amended to read:
60082. If the proposed district is situated in more than one county, the county elections official of the principal county shall immediately transmit to the county elections officials of the participating counties the petitions containing the signatures of the voters of each participating county.

SEC. 181. Section 60083 of the Water Code is amended to read:

60083. Within 30 days of the date of filing the petition with the county elections official of the principal county, the county elections officials of the affected counties shall examine the petition and ascertain whether or not the petition is signed by the requisite number of voters within the county. When the county elections officials of the affected counties have completed their examination of the petition, they shall each attach to the petition their certificates, properly dated, showing the results of the examination, and if from the examination they shall find that the petition is signed by the requisite number of voters residing within the boundaries of that portion of the proposed district within the affected county, or is not so signed, they shall certify the petition as sufficient or insufficient, as the case may be, and the certificates shall forthwith be transmitted to the county elections official of the principal county.

SEC. 182. Section 60095 of the Water Code is amended to read:

60095. If the certificates of the county elections officials of each affected county as filed with the county elections official of the principal county show the petition to be sufficient, the county elections official of the principal county shall present the petition, together with the certificates of the county elections officials of the affected counties to the board of supervisors of the principal county.

SEC. 183. Section 60211 of the Water Code is amended to read:

60211. No person shall vote at any district election held under the provisions of this act who is not a voter within the meaning of the Elections Code, residing in the division of the district in which he or she casts his or her vote. For the purpose of registering voters who shall be entitled to vote at district elections, the county elections official is authorized, in any county in which there is a district, to indicate upon the affidavit of registration whether the voter is a voter of a district.

SEC. 184. Section 60212 of the Water Code is amended to read:

60212. In case the boundary line of a district crosses the boundary line of a county election precinct only those voters within the district and within the precinct who are registered as being voters within the district shall be permitted to vote, and for that purpose the county elections official may provide two sets of ballots within those precincts, one containing the names of candidates for office in the district, and the other not containing those names, and it shall be the duty of the election officers in those precincts to furnish only those persons registered as
voters within the district with the ballots upon which are printed the names of the candidates for office in the district.

SEC. 185. Section 60213 of the Water Code is amended to read:

60213. In counties in which districts are located the county elections official is hereby given authority, and is authorized to have printed upon the official ballots provided for voters at elections for directors a heading in the same form as that provided by the Elections Code for nonpartisan officers, which heading shall be marked "Water Replenishment District," with a subheading "For a Member of the Board of Directors, Division ____ (here inserting the number of the division)—Vote for One," and beneath which shall appear the names of the candidates for the office of member of the board for the division of the district, with the appropriate blank space for the writing in of the name of a candidate if desired by the voters, and with a voting square placed opposite the space. The ballots thus provided shall be furnished by the precinct officers only to those voters within their respective precincts who shall appear on the register as duly registered voters within that division of the district, and in precincts that lie partly within that district and partly without the precinct board shall be supplied with two kinds of ballots by the county elections official, one of which shall contain the matters hereinabove set forth for the use of voters of the district, and the other of which shall be without the heading containing the names of candidates for the office of member of the board, and which shall be furnished to those voters who are not voters of the district and who are voters of the precinct.

SEC. 186. Section 60430 of the Water Code is amended to read:

60430. A petition may be filed with the county elections official of the principal county in which the district is located, signed by at least 25 percent of the voters of the district applying for disorganization and disincorporation of the district, and briefly stating the reasons therefor.

SEC. 187. Section 60431 of the Water Code is amended to read:

60431. Upon the filing of a petition the county elections official shall examine the petition within 30 days and ascertain whether or not the petition is signed by the requisite number of voters.

SEC. 188. Section 60434 of the Water Code is amended to read:

60434. If by the certificate of the county elections official the petition is shown to be sufficient, the county elections official of the principal county shall present the petition to the board of supervisors of the principal county without delay. When the petition is presented by the county elections official, the board of supervisors shall give notice of an election to be held in the district for the purpose of determining whether or not the petition shall be disincorporated and dissolved; provided, however, that in the event the district shall have issued bonds, the board of supervisors shall not consider the petition or take any action hereunder
until evidence shall be furnished showing the bonds to have been fully satisfied.

SEC. 189. Section 60440 of the Water Code is amended to read:

60440. The board of supervisors shall in case the district is disincorporated, forthwith cause its county elections official to make and transmit to the Secretary of State a certified copy of the notice of election hereinbefore provided for, and a statement of the number of voters voting against the disincorporation.

SEC. 190. Section 70033 of the Water Code is amended to read:

70033. The county elections official of the county containing the proposed district shall publish notice of a hearing on the formation petition pursuant to Section 6066 of the Government Code.

SEC. 191. Section 70041 of the Water Code is amended to read:

70041. The notice of the formation election shall contain:

(a) The date of the election.

(b) A description of the boundaries of the proposed district.

(c) The name of the proposed district, which name shall contain the words “Levee District.”

(d) A statement that the first directors will be elected at that election.

The county elections official shall publish the notice once a week for at least two weeks prior to the formation election in one newspaper printed and published in the county.

SEC. 192. Section 71031 of the Water Code is repealed.

SEC. 193. Section 71120 of the Water Code is amended to read:

71120. A petition for the formation of a district, which may consist of any number of separate instruments, shall be filed with the county elections official.

SEC. 194. Section 71125 of the Water Code is amended to read:

71125. The circulation of a formation petition shall be commenced by the proponents within 30 days from the date of the filing of the declaration of intention with the county elections official. The petition shall be circulated and filed with the county elections official within 90 days from the date of the filing of the declaration of intention.

SEC. 195. Section 71126 of the Water Code is amended to read:

71126. Within 30 days of the date of the filing of the formation petition, the county elections official shall examine the petition and determine whether it is signed by the requisite number of voters. Upon request of the county elections official, the board of supervisors shall authorize him or her to employ persons specially for this purpose, in addition to the persons regularly employed in his or her office, and shall provide for their compensation.

SEC. 196. Section 71127 of the Water Code is amended to read:
When the county elections official has completed the examination of the formation petition, he or she shall attach to it the certificate, properly dated, showing the result of the examination.

SEC. 197. Section 71128 of the Water Code is amended to read:

71128. If the county elections official finds from the examination that the formation petition is signed by the requisite number of voters residing within the boundaries of the proposed district, and within the boundaries of each city included therein, he or she shall certify that the petition is sufficient. If he or she finds that it is not so signed, he or she shall certify that the petition is insufficient.

SEC. 198. Section 71129 of the Water Code is amended to read:

71129. If the county elections official certifies in the certificate that the formation petition is insufficient, he or she shall also certify therein to the number of voters required to make the petition sufficient, and the petition may be amended by filing a supplemental petition or petitions within 10 days from the date of the certificate.

SEC. 199. Section 71130 of the Water Code is amended to read:

71130. Within 30 days after the filing of any supplemental petition or petitions, the county elections official shall examine them and certify to the result of the examination as provided in Sections 71126 to 71128, inclusive.

SEC. 200. Section 71132 of the Water Code is amended to read:

71132. After the time for filing supplemental petitions has expired and all supplemental petitions have been examined, if the county elections official’s certificate shows that the formation petition is insufficient, the petition shall be filed with the board of supervisors and kept as a public record, without prejudice to the filing of a new petition.

SEC. 201. Section 71133 of the Water Code is amended to read:

71133. If the county elections official’s certificate shows that the formation petition is sufficient, the county elections official shall present the petition to the board of supervisors without delay.

SEC. 202. Section 71135 of the Water Code is repealed.

SEC. 203. Section 71461 of the Water Code is amended to read:

71461. In counties in which districts are located, the county elections official may have printed upon the official ballots provided for voters at elections for directors a heading in the same form as that provided by the Elections Code for nonpartisan officers. The heading shall be marked “Municipal Water District,” with a subheading “For a Member of the Board of Directors, Division ________ (here inserting the number of the division)—Vote for One,” and beneath which shall appear the names of the candidates for the office of director for that division of the district, with the appropriate blank space for the writing in of the name of a candidate if desired by the voters, and with a voting square placed opposite the space.
SEC. 204. Section 71463 of the Water Code is amended to read:

71463. In precincts which lie only partly within a district, the precinct board shall be supplied with two kinds of ballots by the county elections official, one of which shall contain the matters set forth in Section 71461 for the use of voters of the district, and the other of which shall not contain the matters set forth in Section 71461 and shall be furnished to those voters of the precinct who are not voters of the district.

SEC. 205. Section 4117 of the Welfare and Institutions Code is amended to read:

4117. (a) Whenever a trial is had of any person charged with escape or attempt to escape from a state hospital, whenever a hearing is had on the return of a writ of habeas corpus prosecuted by or on behalf of any person confined in a state hospital except in a proceeding to which Section 5110 applies, whenever a hearing is had on a petition under Section 1026.2, subdivision (b) of Section 1026.5, Section 2972 of the Penal Code, Section 7361 of this code, or former Section 6316.2 of this code for the release of a person confined in a state hospital, and whenever a person confined in a state hospital is tried for any crime committed therein, the appropriate financial officer or other designated official of the county in which the trial or hearing is had shall make out a statement of all mental health treatment costs and shall make out a separate statement of all nontreatment costs incurred by the county for investigation and other preparation for the trial or hearing, and the actual trial or hearing, all costs of maintaining custody of the patient and transporting him or her to and from the hospital, and costs of appeal, which statements shall be properly certified by a judge of the superior court of that county and the statement of mental health treatment costs shall be sent to the State Department of Mental Health and the statement of all nontreatment costs shall be sent to the Controller for approval. After approval, the department shall cause the amount of mental health treatment costs incurred on or after July 1, 1987, to be paid to the county mental health director or his or her designee where the trial or hearing was held out of the money appropriated for this purpose by the Legislature. In addition, the Controller shall cause the amount of all nontreatment costs incurred on and after July 1, 1987, to be paid out of the money appropriated by the Legislature, to the county treasurer of the county where the trial or hearing was had.

(b) Whenever a hearing is held pursuant to Section 1604, 1608, or 1609 of the Penal Code, all transportation costs to and from a state hospital or a facility designated by the community program director during the hearing shall be paid by the Controller as provided in this subdivision. The appropriate financial officer or other designated official of the county in which a hearing is held shall make out a statement of all transportation costs incurred by the county, which
statement shall be properly certified by a judge of the superior court of that county and sent to the Controller for approval. The Controller shall cause the amount of transportation costs incurred on and after July 1, 1987, to be paid to the county treasurer of the county where the hearing was had out of the money appropriated by the Legislature.

As used in this subdivision the community program director is the person designated pursuant to Section 1605 of the Penal Code.

SEC. 206. Section 4457 of the Welfare and Institutions Code is amended to read:

4457. Whenever a trial is had of any person charged with escape or attempt to escape from a state hospital, whenever a hearing is had on the return of a writ of habeas corpus prosecuted by or on behalf of any person confined in a state hospital except in a proceeding to which Section 5110 applies, whenever a hearing is had on a petition under Section 1026.2, subdivision (b) of Section 1026.5, or subdivision (f) of Section 2960 of the Penal Code, or Section 7361 of this code for the release of a person confined in a state hospital, and whenever a person confined in a state hospital is tried for any crime committed therein, the appropriate financial officer or other designated official of the county in which the trial or hearing is had shall make out a statement of all costs incurred by the county for investigation and other preparation for the trial or hearing, and the actual trial or hearing, all costs of maintaining custody of the patient and transporting him or her to and from the hospital, and costs of appeal, which statement shall be properly certified by a judge of the superior court of that county and sent to the Controller for approval. After the court approval, the Controller shall cause the amount of the costs incurred on and after July 1, 1987, to be paid out of the money appropriated by the Legislature, to the county treasurer of the county where the trial or hearing was had.

SEC. 207. Section 4804 of the Welfare and Institutions Code is amended to read:

4804. Whenever a proceeding is held in a superior court under the provisions of this chapter, involving a person who has been placed in a state hospital located outside the county of residence of the person, the provisions of this section shall apply. The appropriate financial officer or other designated official of the county in which the proceeding is held may make out a statement of all of the costs incurred by the county for the investigation, preparation, and conduct of the proceedings, and the costs of appeal, if any. The statement may be certified by a judge of the superior court of the county. The statement may then be sent to the county of residence of the person, which shall reimburse the county providing the services. If it is not possible to determine the actual county of residence of the person, the statement may be sent to the county in
which the person was originally detained, which shall reimburse the county providing the services.

SEC. 208. Section 5110 of the Welfare and Institutions Code is amended to read:

5110. Whenever a proceeding is held in a superior court under Article 5 (commencing with Section 5275) or Article 6 (commencing with Section 5300) of this chapter or Chapter 3 (commencing with Section 5350) of this part involving a person who has been placed in a facility located outside the county of residence of the person, the provisions of this section shall apply. The appropriate financial officer or other designated official of the county in which the proceeding is held shall make out a statement of all of the costs incurred by the county for the investigation, preparation, and conduct of the proceedings, and the costs of appeal, if any. The statement shall be certified by a judge of the superior court of the county. The statement shall then be sent to the county of residence of the person, which shall reimburse the county providing the services. If it is not possible to determine the actual county of residence of the person, the statement shall be sent to the county in which the person was originally detained, which shall reimburse the county providing the services.

CHAPTER 222

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time wherein actions may be commenced, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 15, 2002. Filed with Secretary of State August 16, 2002.]

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

SECTION 1. This act shall be known and may be cited as the Second Validating Act of 2002.

SEC. 2. As used in this act:

(a) “Public body” means the state and all departments, agencies, boards, commissions, and authorities of the state. “Public body” also means all counties, cities and counties, cities, districts, authorities, agencies, boards, commissions, and other entities, whether created by a general statute or a special act, including, but not limited to, the following:
Agencies, boards, commissions, or entities constituted or provided for under or pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

- Air pollution control districts.
- Air quality management districts.
- Airport districts.
- Assessment districts, benefit assessment districts, and special assessment districts of any public body.
- Bridge and highway districts.
- California water districts.
- Citrus pest control districts.
- City maintenance districts.
- Community college districts.
- Community development commissions.
- Community facilities districts.
- Community redevelopment agencies.
- Community rehabilitation districts.
- Community services districts.
- Conservancy districts.
- Cotton pest abatement districts.
- County boards of education.
- County drainage districts.
- County flood control and water districts.
- County free library systems.
- County maintenance districts.
- County sanitation districts.
- County service areas.
- County transportation commissions.
- County water agencies.
- County water authorities.
- County water districts.
- County waterworks districts.
- Department of Water Resources and other agencies acting pursuant to Part 3 (commencing with Section 11100) of Division 6 of the Water Code.

- Distribution districts of any public body.
- Drainage districts.
- Fire protection districts.
- Flood control and water conservation districts.
- Flood control districts.
- Garbage and refuse disposal districts.
- Garbage disposal districts.
- Geologic hazard abatement districts.
- Harbor districts.
Harbor improvement districts.
Harbor, recreation, and conservation districts.
Health care authorities.
Highway districts.
Highway interchange districts.
Highway lighting districts.
Housing authorities.
Improvement districts or improvement areas of any public body.
Industrial development authorities.
Infrastructure financing districts.
Integrated financing districts.
Irrigation districts.
Joint highway districts.
Levee districts.
Library districts.
Library districts in unincorporated towns and villages.
Local agency formation commissions.
Local health care districts.
Local health districts.
Local hospital districts.
Local transportation authorities or commissions.
Maintenance districts.
Memorial districts.
Metropolitan transportation commissions.
Metropolitan water districts.
Mosquito abatement or vector control districts.
Municipal improvement districts.
Municipal utility districts.
Municipal water districts.
Nonprofit corporations.
Nonprofit public benefit corporations.
Open-space maintenance districts.
Parking authorities.
Parking districts.
Permanent road divisions.
Pest abatement districts.
Police protection districts.
Port districts.
Project areas of community redevelopment agencies.
Protection districts.
Public cemetery districts.
Public utility districts.
Rapid transit districts.
Reclamation districts.
Recreation and park districts.
Regional justice facility financing agencies.
Regional park and open-space districts.
Regional planning districts.
Regional transportation commissions.
Resort improvement districts.
Resource conservation districts.
River port districts.
Road maintenance districts.
Sanitary districts.
School districts of any kind or class.
School facilities improvement districts.
Separation of grade districts.
Service authorities for freeway emergencies.
Sewer districts.
Sewer maintenance districts.
Small craft harbor districts.
Special municipal tax districts.
Stone and pome fruit pest control districts.
Storm drain maintenance districts.
Storm drainage districts.
Storm drainage maintenance districts.
Storm water districts.
Toll tunnel authorities.
Traffic authorities.
Transit development boards.
Transit districts.
Unified and union school districts’ public libraries.
Vehicle parking districts.
Water agencies.
Water authorities.
Water conservation districts.
Water districts.
Water replenishment districts.
Water storage districts.
Wine grape pest and disease control districts.
Zones, improvement zones, or service zones of any public body.
(b) “Bonds” means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, all leases, installment purchase agreements, or similar agreements wherein the obligor is one or more public bodies, all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of that body, all instruments payable from revenues or special funds of those public bodies, all certificates of participation evidencing interests
in the leases, installment purchase agreements, or similar agreements, and all instruments funding, refunding, replacing, or amending any thereof or any indebtedness.

(c) “Hereafter” means any time subsequent to the effective date of this act.

(d) “Heretofore” means any time prior to the effective date of this act.

(e) “Now” means the effective date of this act.

SEC. 3. All public bodies heretofore organized or existing under, or under color of, any law, are hereby declared to have been legally organized and to be legally functioning as those public bodies. Every public body, heretofore described, shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of those public bodies regularly formed pursuant to law.

SEC. 4. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 5. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into those public bodies or for the annexation of those public bodies to any other public body or for the detachment, withdrawal, or exclusion of territory from any public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of territory or the consolidation, merger, or dissolution of those public bodies.

SEC. 6. All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds of any public body for any public purpose are hereby authorized, confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of public bodies and of any person, public officer, board, or agency heretofore done or taken upon the question of the authorization, issuance, sale, execution, delivery, or exchange of bonds.

All bonds of, or relating to, any public body heretofore issued shall be, in the form and manner issued and delivered, the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore awarded and sold to a purchaser and hereafter issued and delivered in accordance with the contract of sale and other proceedings for the award and sale shall be the legal, valid, and binding
obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued by ordinance, resolution, order, or other action adopted or taken by or on behalf of the public body and hereafter issued and delivered in accordance with that authorization shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued at an election and hereafter issued and delivered in accordance with that authorization shall be the legal, valid, and binding obligations of the public body. Whenever an election has heretofore been called for the purpose of submitting to the voters of any public body the question of issuing bonds for any public purpose, those bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in accordance with that authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 7. (a) This act shall operate to supply legislative authorization that may be necessary to authorize, confirm, and validate any acts and proceedings heretofore taken pursuant to authority the Legislature could have supplied or provided for in the law under which those acts or proceedings were taken.

(b) This act shall be limited to the validation of acts and proceedings to the extent that the same can be effectuated under the state and federal Constitutions.

(c) This act shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter being legally contested or inquired into in any legal proceeding now pending and undetermined or that is pending and undetermined during the period of 30 days from and after the effective date of this act.

(d) This act shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter that has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(e) This act shall not operate to authorize, confirm, validate, or legalize a contract between any public body and the United States.

SEC. 8. Any action or proceeding contesting the validity of any action or proceeding heretofore taken under any law, or under color of any law, for the formation, organization, or incorporation of any public body, or for any annexation thereto, detachment or exclusion therefrom, or other change of boundaries thereof, or for the consolidation, merger, or dissolution of any public bodies, or for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds thereof upon any ground involving any alleged defect or illegality not effectively validated by the prior provisions of this act and not otherwise barred by any statute of limitations or by laches shall be commenced within six months of the effective date of this act; otherwise each and all
of those matters shall be held to be valid and in every respect legal and
incontestable. This act shall not extend the period allowed for legal
action beyond the period that it would be barred by any presently
existing valid statute of limitations.
SEC. 9. Nothing contained in this act shall be construed to render
the creation of any public body, or any change in the boundaries of any
public body, effective for purposes of assessment or taxation unless the
statement, together with the map or plat, required to be filed pursuant to
Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of
Title 5 of the Government Code, is filed within the time and substantially
in the manner required by those sections.
SEC. 10. This act is an urgency statute necessary for the immediate
preservation of the public peace, health, or safety within the meaning of
Article IV of the Constitution and shall go into immediate effect. The
facts constituting the necessity are:
In order to validate the organization, boundaries, acts, proceedings,
and bonds of public bodies as soon as possible, it is necessary that this
act take immediate effect.

CHAPTER 223

An act to validate the organization, boundaries, acts, proceedings, and
bonds of public bodies, and to provide limitations of time wherein
actions may be commenced.

[Approved by Governor August 15, 2002. Filed with
Secretary of State August 16, 2002.]

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

SECTION 1. This act shall be known and may be cited as the Third
SEC. 2. As used in this act:
(a) “Public body” means the state and all departments, agencies,
boards, commissions, and authorities of the state. “Public body” also
means all counties, cities and counties, cities, districts, authorities,
agencies, boards, commissions, and other entities, whether created by a
general statute or a special act, including, but not limited to, the
following:
   Agencies, boards, commissions, or entities constituted or provided for
under or pursuant to Chapter 5 (commencing with Section 6500) of
Division 7 of Title 1 of the Government Code.
   Air pollution control districts.
Air quality management districts.
Airport districts.
Assessment districts, benefit assessment districts, and special assessment districts of any public body.
Bridge and highway districts.
California water districts.
Citrus pest control districts.
City maintenance districts.
Community college districts.
Community development commissions.
Community facilities districts.
Community redevelopment agencies.
Community rehabilitation districts.
Community services districts.
Conservancy districts.
Cotton pest abatement districts.
County boards of education.
County drainage districts.
County flood control and water districts.
County free library systems.
County maintenance districts.
County sanitation districts.
County service areas.
County transportation commissions.
County water agencies.
County water authorities.
County water districts.
County waterworks districts.
Department of Water Resources and other agencies acting pursuant to Part 3 (commencing with Section 11100) of Division 6 of the Water Code.
Distribution districts of any public body.
Drainage districts.
Fire protection districts.
Flood control and water conservation districts.
Flood control districts.
Garbage and refuse disposal districts.
Garbage disposal districts.
Geologic hazard abatement districts.
Harbor districts.
Harbor improvement districts.
Harbor, recreation, and conservation districts.
Health care authorities.
Highway districts.
Highway interchange districts.
Highway lighting districts.
Housing authorities.
Improvement districts or improvement areas of any public body.
Industrial development authorities.
Infrastructure financing districts.
Integrated financing districts.
Irrigation districts.
Joint highway districts.
Levee districts.
Library districts.
Library districts in unincorporated towns and villages.
Local agency formation commissions.
Local health care districts.
Local health districts.
Local hospital districts.
Local transportation authorities or commissions.
Maintenance districts.
Memorial districts.
Metropolitan transportation commissions.
Metropolitan water districts.
Mosquito abatement or vector control districts.
Municipal improvement districts.
Municipal utility districts.
Municipal water districts.
Nonprofit corporations.
Nonprofit public benefit corporations.
Open-space maintenance districts.
Parking authorities.
Parking districts.
Permanent road divisions.
Pest abatement districts.
Police protection districts.
Port districts.
Project areas of community redevelopment agencies.
Protection districts.
Public cemetery districts.
Public utility districts.
Rapid transit districts.
Reclamation districts.
Recreation and park districts.
Regional justice facility financing agencies.
Regional park and open-space districts.
Regional planning districts.
Regional transportation commissions.
Resort improvement districts.
Resource conservation districts.
River port districts.
Road maintenance districts.
Sanitary districts.
School districts of any kind or class.
School facilities improvement districts.
Separation of grade districts.
Service authorities for freeway emergencies.
Sewer districts.
Sewer maintenance districts.
Small craft harbor districts.
Special municipal tax districts.
Stone and pome fruit pest control districts.
Storm drain maintenance districts.
Storm drainage districts.
Storm drainage maintenance districts.
Storm water districts.
Toll tunnel authorities.
Traffic authorities.
Transit development boards.
Transit districts.
Unified and union school districts’ public libraries.
Vehicle parking districts.
Water agencies.
Water authorities.
Water conservation districts.
Water districts.
Water replenishment districts.
Water storage districts.
Wine grape pest and disease control districts.
Zones, improvement zones, or service zones of any public body.

(b) “Bonds” means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, all leases, installment purchase agreements, or similar agreements wherein the obligor is one or more public bodies, all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of that body, all instruments payable from revenues or special funds of those public bodies, all certificates of participation evidencing interests in the leases, installment purchase agreements, or similar agreements, and all instruments funding, refunding, replacing, or amending any thereof or any indebtedness.
(c) “Hereafter” means any time subsequent to the effective date of this act.
(d) “Heretofore” means any time prior to the effective date of this act.
(e) “Now” means the effective date of this act.

SEC. 3. All public bodies heretofore organized or existing under, or under color of, any law, are hereby declared to have been legally organized and to be legally functioning as those public bodies. Every public body, heretofore described, shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of those public bodies regularly formed pursuant to law.

SEC. 4. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 5. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into those public bodies or for the annexation of those public bodies to any other public body or for the detachment, withdrawal, or exclusion of territory from any public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of territory or the consolidation, merger, or dissolution of those public bodies.

SEC. 6. All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds of any public body for any public purpose are hereby authorized, confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of public bodies and of any person, public officer, board, or agency heretofore done or taken upon the question of the authorization, issuance, sale, execution, delivery, or exchange of bonds.

All bonds of, or relating to, any public body heretofore issued shall be, in the form and manner issued and delivered, the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore awarded and sold to a purchaser and hereafter issued and delivered in accordance with the contract of sale and other proceedings for the award and sale shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued by ordinance, resolution, order, or other action adopted or taken by or on behalf of the public body and
hereafter issued and delivered in accordance with that authorization shall
be the legal, valid, and binding obligations of the public body. All bonds
of, or relating to, any public body heretofore authorized to be issued at
an election and hereafter issued and delivered in accordance with that
authorization shall be the legal, valid, and binding obligations of the
public body. Whenever an election has heretofore been called for the
purpose of submitting to the voters of any public body the question of
issuing bonds for any public purpose, those bonds, if hereafter
authorized by the required vote and in accordance with the proceedings
heretofore taken, and issued and delivered in accordance with that
authorization, shall be the legal, valid, and binding obligations of the
public body.
SEC. 7. (a) This act shall operate to supply legislative authorization
that may be necessary to authorize, confirm, and validate any acts and
proceedings heretofore taken pursuant to authority the Legislature could
have supplied or provided for in the law under which those acts or
proceedings were taken.
(b) This act shall be limited to the validation of acts and proceedings
to the extent that the same can be effectuated under the state and federal
Constitutions.
(c) This act shall not operate to authorize, confirm, validate, or
legalize any act, proceeding, or other matter being legally contested or
inquired into in any legal proceeding now pending and undetermined or
that is pending and undetermined during the period of 30 days from and
after the effective date of this act.
(d) This act shall not operate to authorize, confirm, validate, or
legalize any act, proceeding, or other matter that has heretofore been
determined in any legal proceeding to be illegal, void, or ineffective.
(e) This act shall not operate to authorize, confirm, validate, or
legalize a contract between any public body and the United States.
SEC. 8. Any action or proceeding contesting the validity of any
action or proceeding heretofore taken under any law, or under color of
any law, for the formation, organization, or incorporation of any public
body, or for any annexation thereto, detachment or exclusion therefrom,
or other change of boundaries thereof, or for the consolidation, merger,
or dissolution of any public bodies, or for, or in connection with, the
authorization, issuance, sale, execution, delivery, or exchange of bonds
thereof upon any ground involving any alleged defect or illegality not
effectively validated by the prior provisions of this act and not otherwise
barred by any statute of limitations or by laches shall be commenced
within six months of the effective date of this act; otherwise each and all
of those matters shall be held to be valid and in every respect legal and
incontestable. This act shall not extend the period allowed for legal
action beyond the period that it would be barred by any presently existing valid statute of limitations.

SEC. 9. Nothing contained in this act shall be construed to render the creation of any public body, or any change in the boundaries of any public body, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed pursuant to Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code, is filed within the time and substantially in the manner required by those sections.

CHAPTER 224

An act to amend Section 53069.8 of the Government Code, relating to law enforcement.

[Approved by Governor August 15, 2002. Filed with Secretary of State August 16, 2002.]

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

SECTION 1. Section 53069.8 of the Government Code is amended to read:

53069.8. (a) The board of supervisors of any county may contract on behalf of the sheriff of that county, and the legislative body of any city may contract on behalf of the chief of police of that city, to provide supplemental law enforcement services to:

(1) Private individuals or private entities to preserve the peace at special events or occurrences that happen on an occasional basis.

(2) Private nonprofit corporations that are recipients of federal, state, county, or local government low-income housing funds or grants to preserve the peace on an ongoing basis.

(3) Private entities at critical facilities on an occasional or ongoing basis. A “critical facility” means any building, structure, or complex that in the event of a disaster, whether natural or manmade, poses a threat to public safety, including, but not limited to, airports, oil refineries, and nuclear and conventional fuel powerplants.

(b) Contracts entered into pursuant to this section shall provide for full reimbursement to the county or city of the actual costs of providing those services, as determined by the county auditor or auditor-controller, or by the city, as the case may be.

(c) The services provided pursuant to this section shall be rendered by regularly appointed full-time peace officers, as defined in Section 830.1 of the Penal Code.
(d) Peace officer rates of pay shall be governed by a memorandum of understanding.

(e) A contract entered into pursuant to this section shall encompass only law enforcement duties and not services authorized to be provided by a private patrol operator, as defined in Section 7582.1 of the Business and Professions Code.

(f) Contracting for law enforcement services, as authorized by this section, shall not reduce the normal and regular ongoing service that the county, agency of the county, or city otherwise would provide.

(g) Prior to contracting for ongoing services under paragraph (2) or (3) of subdivision (a), the board of supervisors or legislative body, as applicable, shall discuss the contract and the requirements of this section at a duly noticed public hearing.

CHAPTER 225

An act to add Section 44270.5 to the Education Code, relating to teacher credentialing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 15, 2002. Filed with Secretary of State August 16, 2002.]

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

SECTION 1. It is the intent of the Legislature to establish alternative routes to the preliminary and professional administrative services credentials for individuals who demonstrate competence consistent with state administrative preparation standards.

SEC. 2. Section 44270.5 is added to the Education Code, to read:

44270.5. (a) Notwithstanding any provision of this chapter and as an expedited alternative to Section 44270, the commission may issue a preliminary services credential with a specialization in administrative services to a candidate who completes the following requirements:

(1) Possess a teaching or services credential as specified in paragraph (1) of subdivision (a) of Section 44270.

(2) Completes the experience requirement specified in paragraph (2) of subdivision (a) of Section 44270.

(3) Successfully passes a test adopted by the commission, upon a finding by the commission that the test is aligned to state administrator preparation standards.

(b) Notwithstanding any provision of this chapter and as an alternative to Section 44270.1, the commission may issue a professional
clear services credential with a specialization in administrative services to a candidate who holds or is eligible for a preliminary services credential with a specialization in administrative services, and who meets one of the following requirements:

(1) Successfully completes a program that is accredited by the commission for the professional clear services credential with a specialization in administrative services and receives a recommendation for the credential from the program.

(2) Demonstrates mastery of commission accredited fieldwork performance standards for a professional clear services credential with a specialization in administrative services, and receives a recommendation for the professional clear services credential with a specialization in administrative services from a commission accredited program. The fieldwork performance standards required pursuant to this paragraph shall be as rigorous as all other fieldwork performance standards required by the commission to obtain a professional clear services credential with a specialization in administrative services.

(3) Passes a national administrator performance assessment adopted by the commission.

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 address the growing need for school administrators in public schools as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 226

An act to add Chapter 9.8 (commencing with Section 3400) to Division 4 of Title 1 of the Government Code, relating to public safety.

[Approved by Governor August 15, 2002. Filed with Secretary of State August 16, 2002.]

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

SECTION 1. Chapter 9.8 (commencing with Section 3400) is added to Division 4 of Title 1 of the Government Code, to read:
CHAPTER 9.8. PUBLIC SAFETY OFFICER MEDAL OF VALOR ACT

3400. This chapter shall be known and may be cited as the Public Safety Officer Medal of Valor Act.

3401. The following definitions govern this chapter:
(a) “Board” means the Medal of Valor Review Board.
(b) “Public safety officer” means a person serving a public agency, with or without compensation, as a firefighter, law enforcement officer, or emergency services officer, as determined by the Attorney General. “Law enforcement officer” includes a person who is a corrections or court officer or a civil defense officer.

3402. The Governor annually may award, and present in the name of the State of California, a Medal of Valor of appropriate design, with ribbons and appurtenances, to one public safety officer who is cited by the Attorney General, upon the recommendation of the Medal of Valor Review Board, for extraordinary valor above and beyond the call of duty. In exceptional circumstances, the Governor may award more than one Medal of Valor in a year. The Public Safety Medal of Valor shall be the highest state award for valor awarded to a public safety officer.

3403. (a) There is established a Medal of Valor Review Board, which shall be comprised of representatives of the organizations named in subdivision (b) and shall conduct its business in accordance with the provisions of this chapter. The members of the board shall serve without compensation or reimbursement for travel, per diem, or other expenses. The board shall minimize travel and expenses and utilize technology to the greatest extent possible by teleconferencing, digital transmission of data, electronic mail, and other communication methods.
(b) The board shall consist of a representative, or his or her designee, selected by each of the following organizations:
   (2) The California Correctional Peace Officers Association.
   (3) The California State Firefighters’ Association.
   (4) The Peace Officers Research Association of California.
   (8) The California Union of Safety Employees.
   (9) A group, selected by the board, that represents emergency medical technicians and paramedics.
(c) The term of a board member shall be four years.
(d) Any vacancy in the membership of the board shall not affect the powers of the board and shall be filled in the same manner as the original appointment.
(e) The chair of the board shall be elected by a majority of the members of the board at the first official meeting of the board at a time and place designated by the Attorney General.

3404. (a) The board shall conduct its first meeting not later than 90 days after the appointment of the last member appointed of the initial group of members appointed to the board. Thereafter, the board shall meet at the call of the chair of the board. The board shall meet not more than once each year.

(b) A majority of the members of the board shall constitute a quorum to conduct business, but the board may establish a lesser quorum for conducting hearings scheduled by the board. The board may establish by majority vote any other rules for the conduct of the board’s business, if the rules are not inconsistent with this chapter or other provisions of law.

(c) The board shall recommend candidates for the Medal of Valor from among the applications received by the board. Not more often than once each year, the board may present to the Attorney General the name or names of those it recommends as candidates for the Medal of Valor. In a given year, the board shall not be required to recommend any candidates but may not recommend more than five candidates. The Attorney General in extraordinary cases may increase the number of candidates in a given year. The board shall set an annual timetable for fulfilling its duties under this chapter.

(d) The board may hold one annual hearing, sit and act at a designated time and place, administer oaths, take testimony, and receive evidence as the board considers advisable to carry out its duties.

(e) Witnesses requested to appear before the board may be paid the same fees as are paid to witnesses pursuant to the Code of Civil Procedure. The per diem and mileage allowances for witnesses shall be paid from funds donated to the board.

(f) The board may secure directly from any state department or other state or local agency information as the board considers necessary to carry out its duties. Upon the request of the board, the head of a department or agency may furnish information to the board.

(g) The board shall not disclose any information that may compromise an ongoing law enforcement investigation or is otherwise required by law to be kept confidential.

3405. (a) The board is authorized to receive donations which shall be used to pay any costs associated with holding its annual meeting and having witnesses. If no donated funds are available to the board, the board may not hold hearings and have witnesses.

(b) The costs of production of the medals shall be funded from existing resources within the Department of Justice.
An act to amend Section 1357.16 of the Health and Safety Code, and to amend Section 10718.55 of the Insurance Code, relating to health care.

[Approved by Governor August 15, 2002. Filed with Secretary of State August 16, 2002.]

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

SECTION 1. Section 1357.16 of the Health and Safety Code is amended to read:

1357.16. (a) Health care service plans may enter into contractual agreements with qualified associations, as defined in subdivision (b), under which these qualified associations may assume responsibility for performing specific administrative services, as defined in this section, for qualified association members. Health care service plans that enter into agreements with qualified associations for assumption of administrative services shall establish uniform definitions for the administrative services that may be provided by a qualified association or its third-party administrator. The health care service plan shall permit all qualified associations to assume one or more of these functions when the health care service plan determines the qualified association demonstrates the administrative capacity to assume these functions.

For the purposes of this section, administrative services provided by qualified associations or their third-party administrators shall be services pertaining to eligibility determination, enrollment, premium collection, sales, or claims administration on a per-claim basis that would otherwise be provided directly by the health care service plan or through a third-party administrator on a commission basis or an agent or solicitor workforce on a commission basis.

Each health care service plan that enters into an agreement with any qualified association for the provision of administrative services shall offer all qualified associations with which it contracts the same premium discounts for performing those services the health care service plan has permitted the qualified association or its third-party administrator to assume. The health care service plan shall apply these uniform discounts to the health care service plan’s risk adjusted employee risk rates after the health plan has determined the qualified association’s risk adjusted employee risk rates pursuant to Section 1357.12. The health care service plan shall report to the Department of Managed Health Care its schedule of discount for each administrative service.

In no instance may a health care service plan provide discounts to qualified associations that are in any way intended to, or materially result
in, a reduction in premium charges to the qualified association due to the health status of the membership of the qualified association. In addition to any other remedies available to the director to enforce this chapter, the director may declare a contract between a health care service plan and a qualified association for administrative services pursuant to this section null and void if the director determines any discounts provided to the qualified association are intended to, or materially result in, a reduction in premium charges to the qualified association due to the health status of the membership of the qualified association.

(b) For the purposes of this section, a qualified association is a nonprofit corporation comprised of a group of individuals or employers who associate based solely on participation in a specified profession or industry, that conforms to all of the following requirements:

1. It accepts for membership any individual or small employer meeting its membership criteria.
2. It does not condition membership directly or indirectly on the health or claims history of any person.
3. It uses membership dues solely for and in consideration of the membership and membership benefits, except that the amount of the dues shall not depend on whether the member applies for or purchases insurance offered by the association.
4. It is organized and maintained in good faith for purposes unrelated to insurance.
5. It existed on January 1, 1972, and has been in continuous existence since that date.
6. It has a constitution and bylaws or other analogous governing documents that provide for election of the governing board of the association by its members.
7. It offered, marketed, or sold health coverage to its members for 20 continuous years prior to January 1, 1993.
8. It agrees to offer only to association members any plan contract.
9. It agrees to include any member choosing to enroll in the plan contract offered by the association, provided that the member agrees to make required premium payments.
10. It complies with all provisions of this article.
11. It had at least 10,000 enrollees covered by association sponsored plans immediately prior to enactment of Chapter 1128 of the Statutes of 1992.
12. It applies any administrative cost at an equal rate to all members purchasing coverage through the qualified association.

(c) A qualified association shall comply with Section 1357.52.
(d) The department shall monitor compliance with this section and report the impact of any noncompliance to the Assembly Insurance Committee and the Senate Insurance Committee on January 1, 2002.
SEC. 2. Section 10718.55 of the Insurance Code is amended to read:

10718.55. (a) Carriers may enter into contractual agreements with qualified associations, as defined in subdivision (b), under which these qualified associations may assume responsibility for performing specific administrative services, as defined in this section, for qualified association members. Carriers that enter into agreements with qualified associations for assumption of administrative services shall establish uniform definitions for the administrative services that may be provided by a qualified association or its third-party administrator. The carrier shall permit all qualified associations to assume one or more of these functions when the carrier determines the qualified association demonstrates that it has the administrative capacity to assume these functions.

For the purposes of this section, administrative services provided by qualified associations or their third-party administrators shall be services pertaining to eligibility determination, enrollment, premium collection, sales, or claims administration on a per-claim basis that would otherwise be provided directly by the carrier or through a third-party administrator on a commission basis or an agent or solicitor workforce on a commission basis.

Each carrier that enters into an agreement with any qualified association for the provision of administrative services shall offer all qualified associations with which it contracts the same premium discounts for performing those services the carrier has permitted the qualified association or its third-party administrator to assume. The carrier shall apply these uniform discounts to the carrier’s risk adjusted employee risk rates after the carrier has determined the qualified association’s risk adjusted employee risk rates pursuant to Section 10714. The carrier shall report to the department its schedule of discounts for each administrative service.

In no instance may a carrier provide discounts to qualified associations that are in any way intended to, or materially result in, a reduction in premium charges to the qualified association due to the health status of the membership of the qualified association. In addition to any other remedies available to the commissioner to enforce this chapter, the commissioner may declare a contract between a carrier and a qualified association for administrative services pursuant to this section null and void if the commissioner determines any discounts provided to the qualified association are intended to, or materially result in, a reduction in premium charges to the qualified association due to the health status of the membership of the qualified association.

(b) For the purposes of this section, a qualified association is a nonprofit corporation comprised of a group of individuals or employers
who associate based solely on participation in a specified profession or industry, that conforms to all of the following requirements:

(1) It accepts for membership any individual or small employer meeting its membership criteria.

(2) It does not condition membership, directly or indirectly, on the health or claims history of any person.

(3) It uses membership dues solely for and in consideration of the membership and membership benefits, except that the amount of the dues shall not depend on whether the member applies for or purchases insurance offered by the association.

(4) It is organized and maintained in good faith for purposes unrelated to insurance.

(5) It existed on January 1, 1972, and has been in continuous existence since that date.

(6) It has a constitution and bylaws or other analogous governing documents that provide for election of the governing board of the association by its members.

(7) It offered, marketed, or sold health coverage to its members for 20 continuous years prior to January 1, 1993.

(8) It agrees to offer any plan contract only to association members.

(9) It agrees to include any member choosing to enroll in the plan contract offered by the association, provided that the member agrees to make required premium payments.

(10) It complies with all provisions of this article.

(11) It had at least 10,000 enrollees covered by association-sponsored plans immediately prior to enactment of Chapter 1128 of the Statutes of 1992.

(12) It applies any administrative cost at an equal rate to all members purchasing coverage through the qualified association.

(c) A qualified association shall comply with the requirements set forth in Section 10198.9.

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.
An act to amend Sections 8452, 9190, 9295, 9380, 9509, and 13313 of, to amend and renumber Section 14226 of, and to repeal and add Sections 9167, 9317, and 9504 of, the Elections Code, relating to elections.

[Approved by Governor August 15, 2002. Filed with Secretary of State August 16, 2002.]

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

SECTION 1. Section 8452 of the Elections Code is amended to read:

8452. A county elections official or a deputy county elections official may not circulate nomination papers, and circulators shall not obtain signatures within 100 feet of any election booth or polling place. This section does not prohibit a county elections official or a deputy county elections official from circulating his or her own nomination papers.

SEC. 2. Section 9167 of the Elections Code is repealed.

SEC. 3. Section 9167 is added to the Elections Code, to read:

9167. (a) When an argument in favor and an argument against a measure have been selected for publication in the voter information pamphlet the official responsible for conducting the election shall send copies of the argument in favor of the measure to the authors of the argument against the measure and copies of the arguments against the measure to the authors of the argument in favor. The authors may prepare and submit rebuttal arguments not exceeding 250 words, or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument. The rebuttal arguments shall be submitted to the elections official conducting the election no later than a date designated by the elections official.

(b) Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument that it seeks to rebut and shall be titled “Rebuttal to Argument in Favor of Measure (or Proposition) ____,” or “Rebuttal to Argument Against Measure (or Proposition) ____,” the blank spaces being filled in only with the letter or number, if any, designating the measure. Words used in the title may not be counted when determining the length of any rebuttal argument.

SEC. 4. Section 9190 of the Elections Code is amended to read:

9190. (a) The county elections official shall make a copy of the materials referred to in Sections 9119, 9120, 9160, 9162, and 9167 available for public examination in the county elections official’s office.
for a period of 10 calendar days immediately following the deadline for submission of those materials. Any person may obtain a copy of the materials from the county elections official for use outside of the county elections official’s office. The county elections official may charge a fee to any person obtaining a copy of the material. The fee may not exceed the actual cost incurred by the county elections official in providing the copy.

(b) (1) During the 10-calendar-day public examination period provided by this section, any voter of the jurisdiction in which the election is being held, or the county elections official, himself or herself, may seek a writ of mandate or an injunction requiring any or all of the materials to be amended or deleted. The writ of mandate or injunction request shall be filed no later than the end of the 10-calendar-day public examination period.

(2) A peremptory writ of mandate or an injunction shall be issued only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law.

(3) The county elections official shall be named as respondent and the person or official who authored the material in question shall be named as real parties in interest. In the case of the county elections official bringing the mandamus or injunctive action, the board of supervisors of the county shall be named as the respondent and the person or official who authored the material in question shall be named as the real party in interest.

SEC. 5. Section 9295 of the Elections Code is amended to read:

9295. (a) The elections official shall make a copy of the material referred to in Sections 9219, 9220, 9223, 9280, 9281, 9282, and 9285 available for public examination in the elections official’s office for a period of 10 calendar days immediately following the filing deadline for submission of those materials. Any person may obtain a copy of the materials from the elections official for use outside of the elections official’s office. The elections official may charge a fee to any person obtaining a copy of the material. The fee may not exceed the actual cost incurred by the elections official in providing the copy.

(b) (1) During the 10-calendar-day public examination period provided by this section, any voter of the jurisdiction in which the election is being held, or the elections official, himself or herself, may seek a writ of mandate or an injunction requiring any or all of the materials to be amended or deleted. The writ of mandate or injunction request shall be filed no later than the end of the 10-calendar-day public examination period.
(2) A peremptory writ of mandate or an injunction shall be issued only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with the requirements of this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law.

(3) The elections official shall be named as respondent, and the person or official who authored the material in question shall be named as real parties in interest. In the case of the elections official bringing the mandamus or injunctive action, the board of supervisors of the county shall be named as the respondent and the person or official who authored the material in question shall be named as the real party in interest.

SEC. 6. Section 9317 of the Elections Code is repealed.

SEC. 7. Section 9317 is added to the Elections Code, to read:

9317. (a) When an argument in favor and an argument against a measure have been selected for publication in the voter information pamphlet the elections official responsible for conducting the election shall send copies of the argument in favor of the measure to the authors of the argument against the measure and copies of the arguments against the measure to the authors of the argument in favor. The authors may prepare and submit rebuttal arguments not exceeding 250 words, or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument. The rebuttal arguments shall be submitted to the elections official conducting the election no later than a date designated by the elections official.

(b) Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument that it seeks to rebut and shall be titled “Rebuttal to Argument in Favor of Measure (or Proposition) ____,” or “Rebuttal to Argument Against Measure (or Proposition) ____,” the blank spaces being filled in only with the letter or number, if any, designating the measure. Words used in the title may not be counted when determining the length of any rebuttal argument.

SEC. 8. Section 9380 of the Elections Code is amended to read:

9380. (a) The elections official shall make a copy of the materials referred to in Sections 9312, 9315, and 9317 available for public examination in his or her office for a period of 10 calendar days immediately following the filing deadline for submission of those documents. Any person may obtain a copy of the materials from the elections official for use outside of the elections official’s office. The elections official may charge a fee to any person obtaining a copy of the material. The fee may not exceed the actual cost incurred by the elections official in providing the copy.
(b) (1) During the 10-calendar-day public examination period provided by this section, any voter of the jurisdiction in which the election is being held may seek a writ of mandate or an injunction requiring any material to be amended or deleted. The writ of mandate or injunction request shall be filed no later than the end of the 10-calendar-day public examination period.

(2) A peremptory writ of mandate or an injunction shall be issued only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law.

(3) The elections official shall be named as respondent and the person or official who authored the material in question shall be named as real parties in interest.

SEC. 9. Section 9504 of the Elections Code is repealed.

SEC. 10. Section 9504 is added to the Elections Code, to read:

9504. (a) When an argument in favor and an argument against a measure have been selected for publication in the voter information pamphlet the elections official responsible for conducting the election shall send copies of the argument in favor of the measure to the authors of the argument against the measure and copies of the arguments against the measure to the authors of the argument in favor. The authors may prepare and submit rebuttal arguments not exceeding 250 words, or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument. The rebuttal arguments shall be submitted to the elections official conducting the election no later than a date designated by the elections official.

(b) Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument that it seeks to rebut and shall be titled “Rebuttal to Argument in Favor of Measure (or Proposition) ____,” or “Rebuttal to Argument Against Measure (or Proposition) ____,” the blank spaces being filled in only with the letter or number, if any, designating the measure. Words used in the title may not be counted when determining the length of any rebuttal argument.

SEC. 11. Section 9509 of the Elections Code is amended to read:

9509. (a) The elections official shall make a copy of the materials referred to in Sections 9500, 9501, and 9504 available for public examination in his or her office for a period of 10 calendar days immediately following the filing deadline for submission of those documents. Any person may obtain a copy of the materials from the elections official for use outside of the elections official’s office. The elections official may charge a fee to any person obtaining a copy of the
material. The fee may not exceed the actual cost incurred by the elections official in providing the copy.

(b) (1) During the 10-calendar-day public examination period provided by this section, any voter of the jurisdiction in which the election is being held may seek a writ of mandate or an injunction requiring any or all of the materials to be amended or deleted. The writ of mandate or injunction request shall be filed no later than the end of the 10-calendar-day public examination period.

(2) A peremptory writ of mandate or an injunction shall be issued only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law.

(3) The elections official shall be named as respondent and the person or official who authored the material in question shall be named as real parties in interest.

SEC. 12. Section 13313 of the Elections Code is amended to read:

13313. (a) The elections official shall make a copy of the material referred to in Section 13307 available for public examination in the elections official’s office for a period of 10 calendar days immediately following the filing deadline for submission of those documents. Any person may obtain a copy of the candidate’s statements from the elections official for use outside of the elections official’s office. The elections official may charge a fee to any person obtaining a copy of the material, and the fee may not exceed the actual cost incurred by the elections official in providing the copy.

(b) (1) During the 10-calendar-day public examination period provided by this section, any voter of the jurisdiction in which the election is being held, or the elections official, himself or herself, may seek a writ of mandate or an injunction requiring any or all of the material in the candidates statements to be amended or deleted. The writ of mandate or injunction request shall be filed no later than the end of the 10-calendar-day public examination period.

(2) A peremptory writ of mandate or an injunction shall issue only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with the requirements of this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law.

(3) The elections official shall be named as respondent and the candidate who authored the material in question shall be named as the real party in interest. In the case of the elections official bringing the mandamus or injunctive action pursuant to this subdivision, the board of supervisors of the county shall be named as the respondent and the
candidate who authored the material in question shall be named as the real party in interest.

SEC. 13. Section 14226 of the Elections Code is amended and renumbered to read:

12288. A place where the primary purpose of the establishment is the sale and dispensation of alcoholic beverages may not be used as a polling place. A polling place may not be connected by a door, window, or other opening with any place where any alcoholic beverage is sold or dispensed while the polls are open.

CHAPTER 229

An act to amend Section 35700.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 15, 2002. Filed with Secretary of State August 16, 2002.]

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

SECTION 1. Section 35700.5 of the Vehicle Code is amended to read:

35700.5. (a) The Department of Transportation, upon adoption of an ordinance or resolution that is in conformance with the provisions of this section by both the City of Long Beach and the City of Los Angeles, may issue a special permit to the operator of a vehicle, combination of vehicles, or mobile equipment, permitting the operation and movement of the vehicle, combination, or equipment, and its load, on the 3.66-mile portion of State Route 47 and State Route 103 known as the Terminal Island Freeway, between Willow Street in the City of Long Beach and Terminal Island in the City of Long Beach and the City of Los Angeles, and on the 2.1-mile portion of State Highway Route 1 that is between Blinn Avenue in the City of Los Angeles and Harbor Avenue in the City of Long Beach, if the vehicle, combination, or equipment meets all of the following criteria:

(1) The vehicle, combination of vehicles, or mobile equipment is used to transport intermodal cargo containers that are moving in international commerce.

(2) The vehicle, combination of vehicles, or mobile equipment, in combination with its load, has a maximum gross weight in excess of the maximum gross weight limit of vehicles and loads specified in this chapter, but does not exceed 95,000 pounds gross vehicle weight.
(3) (A) The vehicle, combination of vehicles, or mobile equipment conforms to the axle weight limits specified in Section 35550.

(B) The vehicle, combination of vehicles, or mobile equipment conforms to the axle weight limits in Section 35551, except as specified in subparagraph (C).

(C) Vehicles, combinations of vehicles, or mobile equipment that impose more than 80,000 pounds total gross weight on the highway by any group of two or more consecutive axles, exceed 60 feet in length between the extremes of any group of two or more consecutive axles, or have more than six axles shall conform to weight limits that shall be determined by the Department of Transportation.

(b) The permit issued by the Department of Transportation shall be required to authorize the operation or movement of a vehicle, combination of vehicles, or mobile equipment described in subdivision (a). The permit shall not authorize the movement of hazardous materials or hazardous wastes, as those terms are defined by local, state, and federal law. The following criteria shall be included in the application for the permit:

(1) A description of the loads and vehicles to be operated under the permit.

(2) An agreement wherein each applicant agrees to be responsible for all injuries to persons and for all damage to real or personal property of the state and others directly caused by or resulting from the operation of the applicant’s vehicles or combination of vehicles under the conditions of the permit. The applicant shall agree to hold harmless and indemnify the state and all its agents for all costs or claims arising out of or caused by the movement of vehicles or combination of vehicles under the conditions of the permit.

(3) The applicant shall provide proof of financial responsibility that covers the movement of the shipment as described in subdivision (a). The insurance shall meet the minimum requirements established by law.

(4) An agreement to carry a copy of the permit in the vehicle at all times and furnish the copy upon request of an employee of the Department of the California Highway Patrol or the Department of Transportation.

(5) An agreement to place an indicia, developed by the Department of Transportation, in consultation with the Department of the California Highway Patrol, upon the vehicle identifying it as a vehicle possibly operating under this section. The indicia shall be displayed in the lower right area of the front windshield of the power unit. The Department of Transportation may charge a fee to cover the cost of producing and issuing this indicia.
(c) The permit issued pursuant to subdivision (a) shall be valid for one year. The permit may be canceled by the Department of Transportation for any of the following reasons:
   (1) The failure of the applicant to maintain any of the conditions required pursuant to subdivision (b).
   (2) The failure of the applicant to maintain a satisfactory rating, as required by Section 34501.12.
   (3) A determination by the Department of Transportation that there is sufficient cause to cancel the permit because the continued movement of the applicant’s vehicles under the permit would jeopardize the safety of the motorists on the roadway or result in undue damage to the highways listed in this section.
   (d) The Department of Transportation may charge a fee to cover the cost of issuing a permit pursuant to subdivision (a).

CHAPTER 230

An act to amend Section 5100 of, and to add Article 5.5 (commencing with Section 5097) to Chapter 1 of Division 3 of, the Business and Professions Code, relating to accountancy.

[Approved by Governor August 23, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. The Legislature finds and declares that it is necessary to enact legislation to provide consumer protection and audit integrity in the field of accountancy.

SEC. 2. Article 5.5 (commencing with Section 5097) is added to Chapter 1 of Division 3 of the Business and Professions Code, to read:

Article 5.5. Audit Documentation

5097. (a) Audit documentation shall be a licensee’s records of the procedures applied, the tests performed, the information obtained, and the pertinent conclusions reached in an audit engagement. Audit documentation shall include, but is not limited to, programs, analyses, memoranda, letters of confirmation and representation, copies or abstracts of company documents, and schedules or commentaries prepared or obtained by the licensee.

   (b) Audit documentation shall contain sufficient documentation to enable a reviewer with relevant knowledge and experience, having no
previous connection with the audit engagement, to understand the nature, timing, extent, and results of the auditing or other procedures performed, evidence obtained, and conclusions reached, and to determine the identity of the persons who performed and reviewed the work.

(c) Failure of the audit documentation to document the procedures applied, tests performed, evidence obtained, and relevant conclusions reached in an engagement shall raise a presumption that the procedures were not applied, tests were not performed, information was not obtained, and relevant conclusions were not reached. This presumption shall be a rebuttable presumption affecting the burden of proof relative to those portions of the audit that are not documented as required in subdivision (b). The burden may be met by a preponderance of the evidence.

(d) Audit documentation shall be maintained by a licensee for the longer of the following:

(1) The minimum period of retention provided in subdivision (e).

(2) A period sufficient to satisfy professional standards and to comply with applicable laws and regulations.

(e) Audit documentation shall be maintained for a minimum of seven years which shall be extended during the pendency of any board investigation, disciplinary action, or legal action involving the licensee or the licensee’s firm. The board may adopt regulations to establish a different retention period for specific categories of audit documentation where the board finds that the nature of the documentation warrants it.

(f) Licensees shall maintain a written documentation retention and destruction policy that shall set forth the licensee’s practices and procedures complying with this article.

5098. The board may adopt regulations to implement, interpret, and make specific provisions relating to the following:

(a) Requirements for licensees maintaining an audit documentation retention policy and procedures for review and approval of audit documentation destruction.

(b) Procedures for the identification, dating, and retention of audit documentation.

SEC. 4. Section 5100 of the Business and Professions Code is amended to read:

5100. After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:
(a) Conviction of any crime substantially related to the qualifications, functions and duties of a certified public accountant or a public accountant.

(b) A violation of Section 478, 498, or 499 dealing with false statements or omissions in the application for a license, in obtaining a certificate as a certified public accountant, in obtaining registration under this chapter, or in obtaining a permit to practice public accountancy under this chapter.

(c) Dishonesty, fraud, or gross negligence in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052.

(d) Cancellation, revocation, or suspension of a certificate or other authority to practice as a certified public accountant or a public accountant, refusal to renew the certificate or other authority to practice as a certified public accountant or a public accountant, or any other discipline by any other state or foreign country.

(e) Violation of Section 5097.

(f) Violation of Section 5120.

(g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

(h) Suspension or revocation of the right to practice before any governmental body or agency.

(i) Fiscal dishonesty or breach of fiduciary responsibility of any kind.

(j) Knowing preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.

(k) Embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses.

CHAPTER 231

An act to amend Sections 5000, 5015.6, 5020, 5061, 5063, 5079, and 5100 of, to add Sections 5000.5, 5063.1, 5063.2, 5103, 5108, 5109, and 5109.5 to, and to repeal and amend Section 5076 of, the Business and Professions Code, relating to accountancy, and making an appropriation therefor.

[Approved by Governor August 23, 2002. Filed with Secretary of State August 26, 2002.]
The people of the State of California do enact as follows:

SECTION 1. Section 5000 of the Business and Professions Code is amended to read:

5000. There is in the Department of Consumer Affairs the California Board of Accountancy, which consists of 15 members, seven of whom shall be licensees, and eight of whom shall be public members who shall not be licentiates of the board or registered by the board. The board has the powers and duties conferred by this chapter.

The Governor shall appoint four of the public members, and the seven licensee members as provided in this section. The Senate Rules Committee and the Speaker of the Assembly shall each appoint two public members. In appointing the seven licensee members, the Governor shall appoint members representing a cross section of the accounting profession with at least two members representing a small public accounting firm. For the purposes of this chapter, a small public accounting firm shall be defined as a professional firm that employs a total of no more than four licensees as partners, owners, or full-time employees in the practice of public accountancy within the State of California.

This section shall become inoperative on July 1, 2005, and as of January 1, 2006, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2006, deletes or extends the dates on which this section becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473). However, the review of the board shall be limited to reports or studies specified in this chapter and those issues identified by the Joint Legislative Sunset Review Committee and the board regarding the implementation of new licensing requirements.

SEC. 2. Section 5000.5 is added to the Business and Professions Code, to read:

5000.5. No public member shall be a current or former licensee of the board or an immediate family member of a licensee, or be currently or formerly employed by a public accounting firm, bookkeeping firm, or firm engaged in providing tax preparation as its primary business, or have any financial interest in the business of a licensee. Each public member shall meet all of the requirements for public membership on the board as set forth in Chapter 6 (commencing with Section 450) of Division 1.

SEC. 3. Section 5015.6 of the Business and Professions Code is amended to read:

5015.6. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise
the powers and perform the duties delegated by the board and vested in
him or her by this chapter.

This section shall become inoperative on July 1, 2005, and, as of
January 1, 2006, is repealed, unless a later enacted statute, which
becomes effective on or before January 1, 2006, deletes or extends the
dates on which it becomes inoperative and is repealed.

SEC. 4. Section 5020 of the Business and Professions Code is
amended to read:

5020. The board may, for the purpose of obtaining technical
expertise, appoint an administrative committee of not more than 13
licensees to provide advice and assistance related to the functions
specified in Section 5103. The committee shall act only in an advisory
capacity, shall have no authority to initiate any disciplinary action
against a licensee, and shall only be authorized to report its findings from
any investigation or hearing conducted pursuant to this section to the
board, or upon direction of the board, to the executive officer.

SEC. 5. Section 5061 of the Business and Professions Code is
amended to read:

5061. (a) Except as expressly permitted by this section, a person
engaged in the practice of public accountancy shall not: (1) pay a fee or
commission to obtain a client or (2) accept a fee or commission for
referring a client to the products or services of a third party.

(b) A person engaged in the practice of public accountancy who is not
performing any of the services set forth in subdivision (c) and who
complies with the disclosure requirements of subdivision (d) may accept
a fee or commission for providing a client with the products or services
of a third party where the products or services of a third party are
provided in conjunction with professional services provided to the client
by the person engaged in the practice of public accountancy. Nothing in
this subdivision shall be construed to permit the solicitation or
acceptance of any fee or commission solely for the referral of a client to
a third party.

(c) A person engaged in the practice of public accountancy is
prohibited from performing services for a client or an officer or director
of a client, or a client-sponsored retirement plan, for a commission or
from receiving a commission from a client or an officer or director of a
client, or a client-sponsored retirement plan, during the period in which
the person also performs for that client or officer or director of that client,
or client-sponsored retirement plan, any of the services listed below and
during the period covered by any historical financial statements
involved in those listed services:

(1) An audit or review of a financial statement.

(2) A compilation of a financial statement when that person expects,
or reasonably might expect, that a third party will use the financial
statement and the compilation report does not disclose a lack of independence.

(3) An examination of prospective financial information.

For purposes of this subdivision, “director” means any person as defined under Section 164 of the Corporations Code and “officer” means any individual reported to a regulatory agency as an officer of a corporation.

(d) A person engaged in the practice of public accountancy who is not prohibited from performing services for a commission, or from receiving a commission, and who is paid or expects to be paid a commission, shall disclose that fact to any client or entity to whom the person engaged in the practice of public accountancy recommends or refers a product or service to which the commission relates.

(e) The board shall adopt regulations to implement, interpret, and make specific the provisions of this section including, but not limited to, regulations specifying the terms of any disclosure required by subdivision (d), the manner in which the disclosure shall be made, and other matters regarding the disclosure that the board deems appropriate. These regulations shall require, at a minimum, that a disclosure shall comply with all of the following:

1. Be in writing and be clear and conspicuous.
2. Be signed by the recipient of the product or service.
3. State the amount of the commission or the basis on which it will be computed.
4. Identify the source of the payment and the relationship between the source of the payment and the person receiving the payment.
5. Be presented to the client at or prior to the time the recommendation of the product or service is made.

(f) For purposes of this section, “fee” includes, but is not limited to, a commission, rebate, preference, discount, or other consideration, whether in the form of money or otherwise.

(g) This section shall not prohibit payments for the purchase of any accounting practice or retirement payments to individuals presently or formerly engaged in the practice of public accountancy or payments to their heirs or estates.

SEC. 6. Section 5063 of the Business and Professions Code is amended to read:

5063. (a) A licensee shall report to the board in writing of the occurrence of any of the following events occurring on or after January 1, 1997, within 30 days of the date the licensee has knowledge of these events:

1. The conviction of the licensee of any of the following:
   A. A felony.
(B) Any crime related to the qualifications, functions, or duties of a public accountant or certified public accountant, or to acts or activities in the course and scope of the practice of public accountancy.

(C) Any crime involving theft, embezzlement, misappropriation of funds or property, breach of a fiduciary responsibility, or the preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.

As used in this section, a conviction includes the initial plea, verdict, or finding of guilt, pleas of no contest, or pronouncement of sentence by a trial court even though that conviction may not be final or sentence actually imposed until appeals are exhausted.

(2) The cancellation, revocation, or suspension of a certificate, other authority to practice or refusal to renew a certificate or other authority to practice as a certified public accountant or a public accountant, by any other state or foreign country.

(3) The cancellation, revocation, or suspension of the right to practice as a certified public accountant or a public accountant before any governmental body or agency.

(b) A licensee shall report to the board in writing the occurrence of any of the following events occurring on or after January 1, 2003, within 30 days of the date the licensee has knowledge of the events:

1. Any restatement of a financial statement and related disclosures by a client audited by the licensee.

2. Any civil action settlement or arbitration award against the licensee relating to the practice of public accountancy where the amount or value of the settlement or arbitration award is thirty thousand dollars ($30,000) or greater and where the licensee is not insured for the full amount of the award.

3. Any notice of the opening or initiation of a formal investigation of the licensee by the Securities and Exchange Commission or its designee.

4. Any notice from the Securities and Exchange Commission to a licensee requesting a Wells Submission.

5. Any notice of the opening or initiation of an investigation by the Public Company Accounting Oversight Board or its designee, as defined pursuant to subdivision (g).

(c) A licensee shall report to the board in writing, within 30 days of the entry of the judgment, any judgment entered on or after January 1, 2003, against the licensee in any civil action alleging any of the following:

1. Dishonesty, fraud, gross negligence, or negligence.

2. Breach of fiduciary responsibility.

3. Preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.
(4) Embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses, or other errors or omissions.

(5) Any actionable conduct by the licensee in the practice of public accountancy, the performance of bookkeeping operations, or other professional practice.

(d) The report required by subdivisions (a), (b), and (c) shall be signed by the licensee and set forth the facts which constitute the reportable event. If the reportable event involves the action of an administrative agency or court, then the report shall set forth the title of the matter, court or agency name, docket number, and dates of occurrence of the reportable event.

(e) A licensee shall promptly respond to oral or written inquiries from the board concerning the reportable events, including inquiries made by the board in conjunction with license renewal.

(f) Nothing in this section shall impose a duty upon any licensee to report to the board the occurrence of any of the events set forth in subdivision (a), (b), or (c) either by or against any other licensee.

(g) The board may adopt regulations to further define the reporting requirements of this section.

SEC. 7. Section 5063.1 is added to the Business and Professions Code, to read:

5063.1. Within 10 days of entry of a conviction described in paragraph (1) of subdivision (a) of Section 5063 or a judgment described in subdivision (c) of Section 5063 by a court of this state, the court that rendered the conviction or judgment shall report that fact to the board and provide the board with a copy of the conviction or judgment and any orders or opinions of the court accompanying or ordering the conviction or judgment.

SEC. 8. Section 5063.2 is added to the Business and Professions Code, to read:

5063.2. Within 30 days of payment of all or any portion of any civil action settlement or arbitration award against a licensee of the board in which the amount or value of the settlement or arbitration award is thirty thousand dollars ($30,000) or greater, any insurer or licensed surplus broker providing professional liability insurance to that licensee shall report to the board the name of the licensee, the amount or value of the settlement or arbitration award, the amount paid by the insurer or licensed surplus broker, and the identity of the payee.

SEC. 9. Section 5076 of the Business and Professions Code, as added by Section 2 of Chapter 704 of the Statutes of 2001, is repealed.

SEC. 10. Section 5076 of the Business and Professions Code, as added by Section 5 of Chapter 718 of the Statutes of 2001, is amended to read:
5076. (a) In order to renew its registration, a firm providing attest services, other than a sole proprietor or a small firm as defined in Section 5000, shall complete a peer review prior to the first registration expiration date after January 1, 2006, and no less frequently than every three years thereafter.

(b) For purposes of this article, the following definitions apply:

(1) “Peer review” means a study, appraisal, or review conducted in accordance with professional standards of the professional work of a licensee or registered firm by another licensee unaffiliated with the licensee or registered firm being reviewed. The peer review shall include, but not be limited to, a review of at least one attest engagement representing the highest level of service performed by the firm and may include an evaluation of other factors in accordance with requirements specified by the board in regulations.

(2) “Attest services” include an audit, a review of financial statements, or an examination of prospective financial information, provided, however, “attest services” shall not include the issuance of compiled financial statements.

(c) The board shall adopt regulations as necessary to implement, interpret, and make specific the peer review requirements in this section, including, but not limited to, regulations specifying the requirements for the approval of peer review providers, and regulations establishing a peer review oversight committee.

(d) The board shall review whether to implement the program specified in this section in light of the changes in federal and state law or regulations or professional standards, and shall report its findings to the Legislature and the department by September 1, 2003.

SEC. 11. Section 5079 of the Business and Professions Code is amended to read:

5079. (a) Notwithstanding any other provision of this chapter, any firm lawfully engaged in the practice of public accountancy in this state may have owners who are not licensed as certified public accountants or public accountants if the following conditions are met:

(1) Nonlicensee owners shall be natural persons or entities, such as partnerships, professional corporations, or others, provided that each ultimate beneficial owner of an equity interest in that entity shall be a natural person materially participating in the business conducted by the firm or an entity controlled by the firm.

(2) Nonlicensee owners shall materially participate in the business of the firm, or an entity controlled by the firm, and their ownership interest shall revert to the firm upon the cessation of any material participation.

(3) Licensees shall in the aggregate, directly or beneficially, comprise a majority of owners, except that firms with two owners may have one owner who is a nonlicensee.
(4) Licensees shall in the aggregate, directly or beneficially, hold more than half of the equity capital and possess majority voting rights.

(5) Nonlicensee owners shall not hold themselves out as certified public accountants or public accountants and each licensed firm shall disclose actual or potential involvement of nonlicensee owners in the services provided.

(6) There shall be a certified public accountant or public accountant who has ultimate responsibility for each financial statement attest and compilation service engagement.

(7) Except as permitted by the board in the exercise of its discretion, a person may not become a nonlicensee owner or remain a nonlicensee owner if the person has done either of the following:

(A) Been convicted of any crime, an element of which is dishonesty or fraud, under the laws of any state, of the United States, or of any other jurisdiction.

(B) Had a professional license or the right to practice revoked or suspended for reasons other than nonpayment of dues or fees, or has voluntarily surrendered a license or right to practice with disciplinary charges or a disciplinary investigation pending, and not reinstated by a licensing agency of any state, or the United States, or of any other jurisdiction.

(8) A nonlicensee owner of a licensed firm shall report to the board in writing of the occurrence of any of the events set forth in paragraph (7) within 30 days of the date the nonlicensee owner has knowledge of the event. A conviction includes the initial plea, verdict, or finding of guilt, pleas of no contest, or pronouncement of sentence by a trial court even though that conviction may not be final or sentence actually imposed until appeals are exhausted. The report shall be signed by the nonlicensee owner and set forth the facts that constitute the reportable event. The report shall identify the event by the name of the agency or court, the title of the matter, the docket number, and the date of occurrence of the event.

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

(1) “Licensee” means a certified public accountant or public accountant in this state or a certified public accountant in good standing in another state.

(2) “Material participation” means an activity that is regular, continuous, and substantial.

(c) All firms with nonlicensee owners shall certify at the time of registration and renewal that the firm is in compliance with this section.

(d) The board shall adopt regulations to implement, interpret, or make specific this section.

SEC. 12. Section 5100 of the Business and Professions Code is amended to read:
5100. After notice and hearing the board may revoke, suspend or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct which includes, but is not limited to, one or any combination of the following causes:

(a) Conviction of any crime substantially related to the qualifications, functions and duties of a certified public accountant or a public accountant.

(b) A violation of Section 478, 498, or 499 dealing with false statements or omissions in the application for a license, or in obtaining a certificate as a certified public accountant or in obtaining registration under this chapter or in obtaining a permit to practice public accountancy under this chapter.

(c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in the same or different engagements, for the same or different clients, or any combination of engagements or clients, each resulting in a violation of applicable professional standards that indicate a lack of competency in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052.

(d) Cancellation, revocation or suspension of a certificate, other authority to practice or refusal to renew the certificate or other authority to practice as a certified public accountant or a public accountant, or any other discipline by any other state or foreign country.

(e) Violation of Section 5120.

(f) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

(g) Suspension or revocation of the right to practice before any governmental body or agency.

(h) Fiscal dishonesty or breach of fiduciary responsibility of any kind.

(i) Knowing preparation, publication or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.

(j) Embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses.

(k) The imposition of any discipline, penalty or sanction on a registered public accounting firm or any associated person of such firm, or both, or on any other holder of a permit, certificate, license or other authority to practice in this state, by the Public Company Accounting Oversight Board or the United States Securities and Exchange Commission, or their designees under the Sarbanes-Oxley Act of 2002 or other federal legislation.
SEC. 13. Section 5100 of the Business and Professions Code is amended to read:

5100. After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

(a) Conviction of any crime substantially related to the qualifications, functions and duties of a certified public accountant or a public accountant.

(b) A violation of Section 478, 498, or 499 dealing with false statements or omissions in the application for a license, in obtaining a certificate as a certified public accountant, in obtaining registration under this chapter, or in obtaining a permit to practice public accountancy under this chapter.

(c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in the same or different engagements, for the same or different clients, or any combination of engagements or clients, each resulting in a violation of applicable professional standards that indicate a lack of competency in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052.

(d) Cancellation, revocation, or suspension of a certificate or other authority to practice as a certified public accountant or a public accountant, refusal to renew the certificate or other authority to practice as a certified public accountant or a public accountant, or any other discipline by any other state or foreign country.

(e) Violation of Section 5097.

(f) Violation of Section 5120.

(g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

(h) Suspension or revocation of the right to practice before any governmental body or agency.

(i) Fiscal dishonesty or breach of fiduciary responsibility of any kind.

(j) Knowing preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.

(k) Embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses.

(l) The imposition of any discipline, penalty, or sanction on a registered public accounting firm or any associated person of such firm, or both, or on any other holder of a permit, certificate, license, or other authority to practice in this state, by the Public Company Accounting
Oversight Board or the United States Securities and Exchange Commission, or their designees under the Sarbanes-Oxley Act of 2002 or other federal legislation.

SEC. 14. Section 5103 is added to the Business and Professions Code, to read:

5103. (a) Notwithstanding any other provision of law, the board may inquire into any alleged violation of this chapter or any other state or federal law, regulation, or rule relevant to the practice of accountancy.

(b) The board, or its executive officer pursuant to a delegation of authority from the board, is authorized to perform the following functions:

(1) To receive and investigate complaints and to conduct investigations or hearings, with or without the filing of any complaint, and to obtain information and evidence relating to any matter involving the conduct of licensees, as directed by the board, or as directed by the executive officer pursuant to a delegation of authority from the board.

(2) To receive and investigate complaints and to conduct investigations or hearings, with or without the filing of any complaint, and to obtain information and evidence relating to any matter involving any violation or alleged violation of this chapter by licensees, as directed by the board, or as directed by the executive officer pursuant to a delegation of authority from the board.

SEC. 15. Section 5108 is added to the Business and Professions Code, to read:

5108. In connection with any investigation or action authorized by this chapter, the board may issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents and testimony pertinent or material to any inquiry, investigation, hearing, proceeding, or action conducted in any part of the state.

SEC. 16. Section 5109 is added to the Business and Professions Code, to read:

5109. The expiration, cancellation, forfeiture, or suspension of a license by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against the licensee, or to render a decision suspending or revoking the license.

SEC. 17. Section 5109.5 is added to the Business and Professions Code, to read:

5109.5. The board shall report to the Legislature by September 1, 2003, on problems associated with policing and disciplining those accountants who violate Section 5100 or other provisions of this chapter and who are employed by a large public accounting firm. The board shall look critically at their enforcement budget and identify costs of
investigation and prosecution of these disciplinary actions and propose ways to cover costs of handling these types of cases.

SEC. 18. Section 13 of this bill incorporates amendments to Section 5100 of the Business and Professions Code proposed by both this bill and AB 2873. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2003, (2) each bill amends Section 5100 of the Business and Professions Code, and (3) this bill is enacted after AB 2873, in which case Section 12 of this bill shall not become operative.

CHAPTER 232

An act to add Section 5062.2 to the Business and Professions Code, relating to accounting.

[Approved by Governor August 23, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 5062.2 is added to the Business and Professions Code, to read:

5062.2. A licensee shall not accept employment with a publicly traded corporation or its affiliate within 12 months of the date of issuance of a financial statement report if both of the following criteria are met:

(a) The licensee has participated in an audit engagement for the corporation and held responsibility, with respect to the audit engagement, requiring the licensee to exercise significant judgment in the audit process. Responsibilities meeting the requirements of this subdivision include, but are not limited to, positions, however titled, where the licensee was the person in charge of the fieldwork, up through positions where the licensee was a partner on the engagement.

(b) The employment would permit the licensee to exercise significant authority over accounting or financial reporting, including authority over the controls related to those functions.

CHAPTER 233

An act to add Section 87105 to the Government Code, relating to the Political Reform Act of 1974.
The people of the State of California do enact as follows:

SECTION 1. Section 87105 is added to the Government Code, to read:

87105. (a) A public official who holds an office specified in Section 87200 who has a financial interest in a decision within the meaning of Section 87100 shall, upon identifying a conflict of interest or a potential conflict of interest and immediately prior to the consideration of the matter, do all of the following:

(1) Publicly identify the financial interest that gives rise to the conflict of interest or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.

(2) Recuse himself or herself from discussing and voting on the matter, or otherwise acting in violation of Section 87100.

(3) Leave the room until after the discussion, vote, and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters.

(4) Notwithstanding paragraph (3), a public official described in subdivision (a) may speak on the issue during the time that the general public speaks on the issue.

(b) This section does not apply to Members of the Legislature.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 3. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 234

An act to amend Sections 19403.5, 19410.8, 19415.8, and 19533.5 of the Business and Professions Code, relating to horse racing.
The people of the State of California do enact as follows:

SECTION 1. Section 19403.5 of the Business and Professions Code is amended to read:

19403.5. "Barrel race" means a horse race around a course with three barrels placed in a triangular pattern which may conform to the requirements of the Women’s Professional Rodeo Association. Two barrel racecourses may be run simultaneously in the form of a heat.

SEC. 2. Section 19410.8 of the Business and Professions Code is amended to read:

19410.8. "Show jumping race" means a horse race, over obstacles made of artificial or natural material, which is shorter than a steeplechase course, and is run by horses for time with faults converted to time. Requirements and rules for a show jumping race may conform to the requirements and rules of the American Horse Shows Association.

SEC. 3. Section 19415.8 of the Business and Professions Code is amended to read:

19415.8. "Steeplechase race" means horse racing over obstacles made of natural or artificial material and includes both hurdle and timber races. Rules for a steeplechase race may conform to rules of the National Steeplechase and Hunt Association.

SEC. 4. Section 19533.5 of the Business and Professions Code is amended to read:

19533.5. (a) Notwithstanding Section 19533, the board may authorize the following mixed breed racing:

(1) An association licensed to conduct a quarter horse meeting to include Appaloosa races and Arabian races with the consent of the quarter horse horsemen’s organization contracting with the association with respect to the conduct of the racing meeting.

(2) A race between a quarter horse and a thoroughbred horse at a thoroughbred meeting with the consent of the thoroughbred horsemen’s organization contracting with the association with respect to the conduct of the racing meeting.

(b) Notwithstanding Section 19533, an association licensed to conduct quarter horse racing or a fair may conduct races that include paint horses racing with quarter horses or Appaloosa horses in the same race. When paint horses race with quarter horses, the consent of the organization that represents quarter horse horsemen and horsewomen shall first be obtained. A quarter horse association may write a race for paint horses only to replace an Appaloosa or Arabian race without
increasing the average number of races run per race day with the consent of the organization representing the quarter horse men and women.

(c) A quarter horse race with seven or more entries shall not be replaced by a race that includes paint horses, without the consent of the organization that represents quarter horse horsemen and horsewomen.

(d) Notwithstanding any other provision of law, any quarter horse racing association or fair conducting barrel racing, paint horse racing, show jump racing, or steeplechase racing shall pay to the quarter horsemen’s organization the amount specified in Section 19613 for purposes of representing the horsemen and horsewomen conducting these races.

CHAPTER 235

An act to add Section 30812 to the Public Resources Code, relating to coastal development.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 30812 is added to the Public Resources Code, to read:

30812. (a) Whenever the executive director of the commission has determined, based on substantial evidence, that real property has been developed in violation of this division, the executive director may cause a notification of intention to record a notice of violation to be mailed by regular and certified mail to the owner of the real property at issue, describing the real property, identifying the nature of the violation, naming the owners thereof, and stating that if the owner objects to the filing of a notice of violation, an opportunity will be given to the owner to present evidence on the issue of whether a violation has occurred.

(b) The notification specified in subdivision (a) shall indicate that the owner is required to respond in writing, within 20 days of the postmarked mailing of the notification, to object to recording the notice of violation. The notification shall also state that if, within 20 days of mailing of the notification, the owner of the real property at issue fails to inform the executive director of the owner’s objection to recording the notice of violation, the executive director shall record the notice of violation in the office of each county records where all or part of the property is located.
(c) If the owner submits a timely objection to the proposed filing of the notice of violation, a public hearing shall be held at the next regularly scheduled commission meeting for which adequate public notice can be provided, at which the owner may present evidence to the commission why the notice of violation should not be recorded. The hearing may be postponed for cause for not more than 90 days after the date of the receipt of the objection to recordation of the notice of violation.

(d) If, after the commission has completed its hearing and the owner has been given the opportunity to present evidence, the commission finds that, based on substantial evidence, a violation has occurred, the executive director shall record the notice of violation in the office of each county recorder where all or part of the real property is located. If the commission finds that no violation has occurred, the executive director shall mail a clearance letter to the owner of the real property.

(e) (1) The notice of violation shall be contained in a separate document prominently entitled “Notice of Violation of the Coastal Act.” The notice of violation shall contain all of the following information:

(A) The names of the owners of record.
(B) A legal description of the real property affected by the notice.
(C) A statement specifically identifying the nature of the alleged violation.
(D) A commission file number relating to the notice.

(2) The notice of violation, when properly recorded and indexed, shall be considered notice of the violation to all successors in interest in that property. This notice is for informational purposes only and is not a defect, lien, or encumbrance on the property.

(f) Within 30 days after the final resolution of a violation that is the subject of a recorded notice of violation, the executive director shall mail a clearance letter to the owner of the real property and shall record a notice of recision in the office of each county recorder in which the notice of violation was filed, indicating that the notice of violation is no longer valid. The notice of recision shall have the same effect of a withdrawal or expungement under Section 405.61 of the Code of Civil Procedure.

(g) The executive director may not invoke the procedures of this section until all existing administrative methods for resolving the violation have been utilized and the property owner has been made aware of the potential for the recordation of a notice of violation. For purposes of this subdivision, existing methods for resolving the violation do not include the commencement of an administrative or judicial proceeding.

(h) This section only applies in circumstances where the commission is the legally responsible coastal development permitting authority or where a local government or port governing body requests the commission to assist in the resolution of an unresolved violation if the
local government is the legally responsible coastal development permitting authority.

(i) The commission, 24 months from the date of recordation, shall review each notice of violation that has been recorded to determine why the violation has not been resolved and whether the notice of violation should be expunged.

(j) The commission, at any time and for cause, on its own initiative or at the request of the property owner, may cause a notice of recision to be recorded invalidating the notice of violation recorded pursuant to this section. The notice of recision shall have the same effect of a withdrawal or expungement under Section 405.61 of the Code of Civil Procedure.

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

CHAPTER 236

An act to amend Section 19170 of the Government Code, relating to state employment.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 19170 of the Government Code is amended to read:

19170. (a) The board shall establish for each class the length of the probationary period. The probationary period that shall be served upon appointment shall be six months unless the board establishes a longer period of not more than one year.

(b) The board may provide by rule for either of the following:

(1) Increasing the length of individual probationary periods by adding thereto periods of time during which an employee, while serving as a probationer, is absent from his or her position.

(2) Requiring an additional period not to exceed the length of the original probationary period when a probationary employee returns after an extended period of absence and the remainder of the probationary period is insufficient to evaluate his or her current performance.
(c) Upon written agreement between an appointing power and an employee who alleges that he or she has a disability, as defined in Section 12926, subject to approval of the agreement by the board, the employee’s probationary period may be extended for a period, not to exceed six months, to allow the appointing power to provide a reasonable accommodation to the employee and the employee to demonstrate, before the probationary period ends, the ability to perform satisfactorily the essential functions of the position with reasonable accommodation. Nothing in this subdivision may relieve an appointing power from complying with applicable law requiring reasonable accommodation or prohibiting discrimination based on disability, and no employee, as a condition of an agreement to extend the probationary period, may be required to waive or release any rights he or she may have under applicable law requiring reasonable accommodation or prohibiting discrimination based on disability.

CHAPTER 237

An act to amend Sections 9106 and 9204 of the Elections Code, relating to local government elections.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 9106 of the Elections Code is amended to read:

9106. Any elector of the county may seek a writ of mandate requiring the ballot title or summary prepared by the county counsel to be amended. The court shall expedite hearing on the writ. A peremptory writ of mandate shall be issued only upon clear and convincing proof that the ballot title or summary is false, misleading, or inconsistent with the requirements of Section 9105.

SEC. 2. Section 9204 of the Elections Code is amended to read:

9204. Any elector of the city may seek a writ of mandate requiring the ballot title or summary prepared by the city attorney to be amended. The court shall expedite hearing on the writ. A peremptory writ of mandate shall be issued only upon clear and convincing proof that the ballot title or summary is false, misleading, or inconsistent with the requirements of Section 9203.
CHAPTER 238

An act to add Chapter 10.7 (commencing with Section 6400) to the Penal Code, relating to prisons.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Chapter 10.7 (commencing with Section 6400) is added to the Penal Code, to read:

CHAPTER 10.7. PRISON VISITATION

6400. Any amendments to existing regulations and any future regulations adopted by the Department of Corrections which may impact the visitation of inmates shall do all of the following:
(a) Recognize and consider the value of visiting as a means to improve the safety of prisons for both staff and inmates.
(b) Recognize and consider the important role of inmate visitation in establishing and maintaining a meaningful connection with family and community.
(c) Recognize and consider the important role of inmate visitation in preparing an inmate for successful release and rehabilitation.

CHAPTER 239

An act to amend Section 136.5 of, and to add Section 136.1 to, the Streets and Highways Code, relating to state highways.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. The Legislature finds and declares that contracts entered into pursuant to Section 136.1 are not intended to be used as a means to cause the layoff or demotion of existing state civil service employees.

SEC. 2. Section 136.1 is added to the Streets and Highways Code, to read:
136.1. The department may enter into major damage mitigation contracts to perform major damage repairs and operations on state
highways when caused by sudden, unforeseen events such as storms, landslides, flooding, high surf, earthquakes or other geological action, or civil unrest. These contracts may be entered into prior to the onset of major damage in order to retain the contractor in readiness to respond to incidents as needed. Work performed under each contract shall be limited to physical construction, demolition, debris removal, and traffic control. The work shall be considered, for funding purposes, as a public works construction project.

SEC. 3. Section 136.5 of the Streets and Highways Code is amended to read:

136.5. (a) The contracts referred to in Sections 135, 136, and 136.1 are not subject to the State Contract Act (Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code). Except for emergency work of the type described in subdivision (b), whenever the estimated amount of a contract exceeds two thousand five hundred dollars ($2,500), it shall be awarded to the lowest responsible bidder, after competitive bidding on any reasonable notice that the department may prescribe. Posting of notice for five days in a public place in the district office within which the work is to be done, or the equipment used, is sufficient. Those contracts shall be subject to the applicable payment bond provisions of Chapter 7 (commencing with Section 3247) of Part 4 of Division 3 of the Civil Code. The department may require faithful performance bonds when considered necessary. The advertisement for each contract shall state whether or not a bond shall be required.

(b) In cases of emergency work necessitated by the imminence or occurrence of a landslide, flood, storm damage, accident, or other casualty, tools or equipment may be rented for a period of not to exceed 60 days without competitive bidding, and the department may waive the requirements of Chapter 7 (commencing with Section 3247) of Part 4 of Division 3 of the Civil Code to the extent that a contractor may commence performance of the work under the contract for the rental of tools or equipment prior to filing a payment bond with the department. In that case, no payment shall be made to the contractor until a payment bond covering all work of the contract is filed with the department.

CHAPTER 240

An act to add Section 5029 to the Penal Code, relating to penal institutions.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]
The people of the State of California do enact as follows:

SECTION 1. Section 5029 is added to the Penal Code, to read:
5029. (a) The Director of Corrections shall ensure that documents, computers, or computer accessible media containing personal information relating to an employee of the Department of Corrections are not removed from the state prison without proper authorization from the warden or his or her designee.

(b) Any employee of the Department of Corrections who, without proper authorization, knowingly removes personal information relating to an employee of the Department of Corrections from the state prison in violation of subdivision (a), or who fails to provide the appropriate notice as required in subdivision (c), is subject to disciplinary action.

(c) (1) An employee who removes personal information shall, once the employee is aware that the information either is lost or stolen or cannot be accounted for, make a reasonable effort to immediately notify the warden, or his or her designee, of that fact.

(2) The warden, or his or her designee, shall attempt to notify the employee whose personal information either is lost or stolen or cannot be accounted for within 24 hours of receiving the notice under paragraph (1).

(d) For purposes of this section, “personal information” shall have the same meaning as set forth in Section 1798.3 of the Civil Code.

(e) It is not the intent of the Legislature, in enacting this section, to inhibit or prevent a person from making a disclosure of improper governmental activity that is protected by subparagraphs (A) and (B) of paragraph (2) of subdivision (a) of Section 6129, or by the California Whistleblower Protection Act, Article 3 (commencing with Section 8547) of Chapter 6.5 of Division 1 of Title 2 of the Government Code, or by the Whistleblower Protection Act, Article 10 (commencing with Section 9149.20) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code. Furthermore, nothing in this section shall be construed to interfere with the authority of the Office of the Inspector General pursuant to Section 6126.5 of this code, nor the authority of the State Auditor pursuant to Section 8545.2 of the Government Code.

CHAPTER 241

An act to amend Section 27903 of the Vehicle Code, relating to hazardous materials, and declaring the urgency thereof, to take effect immediately.
The people of the State of California do enact as follows:

SECTION 1. Section 27903 of the Vehicle Code is amended to read:

27903. (a) Subject to Section 114765 of the Health and Safety Code, any vehicle transporting any explosive, blasting agent, flammable liquid, flammable solid, oxidizing material, corrosive, compressed gas, poison, radioactive material, or other hazardous materials, of the type and in quantities that require the display of placards or markings on the vehicle exterior by the United States Department of Transportation regulations (49 C.F.R., Parts 172, 173, and 177), shall display the placards and markings in the manner and under conditions prescribed by those regulations of the United States Department of Transportation.

(b) This section does not apply to the following:

(1) Any vehicle transporting not more than 20 pounds of smokeless powder or not more than five pounds of black sporting powder or any combination thereof.

(2) An authorized emergency vehicle as defined in paragraph (1) of subdivision (b) of Section 165, operated by a peace officer as defined in Sections 830.1 and 830.2 of the Penal Code, when transportation is required within the scope and course of law enforcement explosives detection or removal duties, provided one of the following conditions applies:

(A) The law enforcement agency operating the vehicle complies with regulations adopted by the California Highway Patrol pursuant to subdivision (b) of Section 34501, notwithstanding Section 34500 and subdivision (a) of Section 34501.

(B) The peace officer possesses an exemption issued by the commissioner, who may require additional transportation restrictions as deemed appropriate.

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

In order to ensure the public safety on the highways and allow the expeditious removal of hazardous materials from public places, it is necessary that this act take effect immediately.
The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that it is the policy of the state to protect public health and safety in a manner that compliments sustainability as an extension of resource conservation.

SEC. 2. The Legislature finds and declares that the safe handling, reduction, or elimination of pesticide use in state buildings and on state lands is an important step in providing all state employees and members of the public with a safe, healthy environment.

SEC. 3. It is the intent of the Legislature to enact legislation to protect public and environmental health through Integrated Pest Management (IPM) techniques, where feasible, before considering the use of pesticides on state property.

SEC. 4. Article 8 (commencing with Section 14717) is added to Chapter 2 of Part 5.5 of Division 3 of Title 2 of the Government Code, to read:

Article 18. Integrated Pest Management

14717. (a) The Department of General Services shall apply for grants and other funding as may be available from state, federal, or other sources and upon receipt of appropriate funds, shall implement a demonstration project to study the use of Integrated Pest Management (IPM) techniques at the State Capitol Park and its associated grounds that include the area located in the blocks bounded by 9th and 15th, L and N Streets, in the City of Sacramento, State of California. The Department of General Services shall apply for funds from July 1, 2002, to July 1, 2005, until appropriate funds are obtained.

(b) Successful practices learned directly from this demonstration project shall be deemed a sustainable measure, fitness and quality to traditional pest management methods being equal, and shall be made available to those state agencies interested in Integrated Pest Management. Successful practices learned from this demonstration program should also be made available to local jurisdictions at their request and expense, if appropriate.
(c) The Department of General Services shall present a report on this demonstration project to the Legislature within six months of its implementation.

(d) For the purposes of this section “Integrated Pest Management (IPM)” means a pest management strategy that focuses on long-term prevention or suppression of pest problems through a combination of techniques such as monitoring for pest presence and establishing treatment threshold levels, using nonchemical practices to make the habitat less conducive to pest development, improving sanitation, and employing mechanical and physical controls. Pesticides that pose the least possible hazard and are effective in a manner that minimizes risks to people, property, and the environment, are used only after careful monitoring indicates they are needed according to preestablished guidelines and treatment thresholds.

CHAPTER 243

An act to add Section 8588.4 to the Government Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. The Legislature finds and declares the following:
(a) Transportation providers in California have had a long history of preparing for, and dealing with, natural and man-made disasters including earthquakes, fires, floods, and civil unrest.
(b) Nevertheless, the events of September 11, 2001, have resulted in a heightened awareness of the vulnerabilities not only of air travel, but of virtually all modes of transportation.
(c) On November 20, 2001, the Assembly Committee on Transportation held a special hearing in Oakland, California, to explore the readiness of transportation providers to protect against, and respond to, acts of terrorism that might be contemplated against their facilities and their clients.
(d) While the information garnered at that hearing revealed that an extensive amount of preparation and planning had taken place both prior and subsequent to September 11, 2001, many agencies were not fully comfortable with their ability to assess all potential threats against them. Additionally, most agencies expressed a desire to take additional
preventive actions but were unable to, due either to a lack of funding or an inability to identify feasible measures.

(e) It is therefore incumbent upon the Legislature to provide the means for comprehensive risk assessments to be undertaken for all segments of the transportation sector and to identify those measures that are necessary and feasible to prevent or respond to terrorist acts that may be taken against transportation facilities, services, and users.

SEC. 2. Section 8588.4 is added to the Government Code, to read:

8588.4. (a) The California Highway Patrol in cooperation with the Office of Emergency Services and the California National Guard and in consultation with the United States Coast Guard and all relevant federal, state, and local transportation and law enforcement agencies, shall perform a risk assessment of California’s transportation system. The scope of this assessment shall include, but not be limited to, the transportation infrastructure within the scope of the California Highway Patrol’s responsibilities. The assessment may not necessarily involve an inspection or examination of each individual facility and service but rather an overview of any risk that may exist within California’s transportation system. For each potential threat or security deficiency identified in the risk assessment, there shall be included one or more recommended measures to mitigate those risks.

(b) The California Highway Patrol shall submit a confidential report of its findings and recommendations to the Governor, the Speaker of the Assembly, the President pro Tempore of the Senate, the minority leader of the Assembly, and the minority leader of the Senate not later than January 1, 2003.

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:

Forces hostile to the United States pose an immediate and continuing threat to all Americans. Because transportation facilities offer a potential target for terrorist actions, it is necessary that suggested preventive measures emanating from this act be adopted at the earliest possible date.

CHAPTER 244

An act to add Sections 51.1 and 55.2 to the Civil Code, to add Section 4461 to the Government Code, and to add Sections 19954.5 and 19959.5 to the Health and Safety Code, relating to civil rights.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]
The people of the State of California do enact as follows:

SECTION 1. Section 51.1 is added to the Civil Code, to read:

51.1. If a violation of Section 51, 51.5, 51.7, 51.9, or 52.1 is alleged or the application or construction of any of these sections is in issue in any proceeding in the Supreme Court of California, a state court of appeal, or the appellate division of a superior court, each party shall serve a copy of the party’s brief or petition and brief, on the State Solicitor General at the Office of the Attorney General. No brief may be accepted for filing unless the proof of service shows service on the State Solicitor General. Any party failing to comply with this requirement shall be given a reasonable opportunity to cure the failure before the court imposes any sanction and, in that instance, the court shall allow the Attorney General reasonable additional time to file a brief in the matter.

SEC. 2. Section 55.2 is added to the Civil Code, to read:

55.2. If a violation of Section 54, 54.1, 54.2, or 54.3 is alleged or the application or construction of any of these sections is in issue in any proceeding in the Supreme Court of California, a state court of appeal, or the appellate division of a superior court, each party shall serve a copy of the party’s brief or petition and brief, on the State Solicitor General at the Office of the Attorney General. No brief may be accepted for filing unless the proof of service shows service on the State Solicitor General. Any party failing to comply with this requirement shall be given a reasonable opportunity to cure the failure before the court imposes any sanction and, in that instance, the court shall allow the Attorney General reasonable additional time to file a brief in the matter.

SEC. 3. Section 4461 is added to the Government Code, to read:

4461. If a violation of Section 4450, 4450.5, 4451, 4452, 4453.5, 4454, 4455, 4455.5, 4456, 4457, 4459, or 4460 is alleged or the application or construction of any of these sections is in issue in any proceeding in the Supreme Court of California, a state court of appeal, or the appellate division of a superior court, each party shall serve a copy of the party’s brief or petition and brief, on the State Solicitor General at the Office of the Attorney General. No brief may be accepted for filing unless the proof of service shows service on the State Solicitor General. Any party failing to comply with this requirement shall be given a reasonable opportunity to cure the failure before the court imposes any sanction and, in that instance, the court shall allow the Attorney General reasonable additional time to file a brief in the matter.

SEC. 4. Section 19954.5 is added to the Health and Safety Code, to read:

19954.5. If a violation of Section 19952, 19953, or 19954 is alleged or the application or construction of any of these sections is in issue in any proceeding in the Supreme Court of California, a state court of
appeal, or the appellate division of a superior court, each party shall serve a copy of the party’s brief or petition and brief, on the State Solicitor General at the Office of the Attorney General. No brief may be accepted for filing unless the proof of service shows service on the State Solicitor General. Any party failing to comply with this requirement shall be given a reasonable opportunity to cure the failure before the court imposes any sanction and, in that instance, the court shall allow the Attorney General reasonable additional time to file a brief in the matter.

SEC. 5. Section 19959.5 is added to the Health and Safety Code, to read:

19959.5. If a violation of Section 19955, 19955.3, 19955.5, 19956, 19956.5, 19957, 19957.5, or 19959 is alleged or the application or construction of any of these sections is in issue in any proceeding in the Supreme Court of California, a state court of appeal, or the appellate division of a superior court, each party shall serve a copy of the party’s brief or petition and brief, on the State Solicitor General at the Office of the Attorney General. No brief may be accepted for filing unless the proof of service shows service on the State Solicitor General. Any party failing to comply with this requirement shall be given a reasonable opportunity to cure the failure before the court imposes any sanction and, in that instance, the court shall allow the Attorney General reasonable additional time to file a brief in the matter.

CHAPTER 245

An act to amend Sections 130100, 130105, and 130125 of the Health and Safety Code, relating to child development.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 130100 of the Health and Safety Code is amended to read:

130100. There is hereby created a program in the state for the purposes of promoting, supporting, and improving the early development of children from the prenatal stage to five years of age. These purposes shall be accomplished through the establishment, institution, and coordination of appropriate standards, resources, and integrated and comprehensive programs emphasizing community awareness, education, nurturing, child care, social services, health care, and research.
(a) It is the intent of this act to facilitate the creation and implementation of an integrated, comprehensive, and collaborative system of information and services to enhance optimal early childhood development and to ensure that children are ready to enter school. This system should function as a network that promotes accessibility to all information and services from any entry point into the system. It is further the intent of this act to emphasize local decisionmaking, to provide for greater local flexibility in designing delivery systems, and to eliminate duplicate administrative systems.

(b) The programs authorized by this act shall be administered by the California Children and Families Commission and by county children and families commissions. In administering this act, the state and county commissions shall use outcome-based accountability to determine future expenditures.

(c) This division shall be known and may be cited as the “California Children and Families Act of 1998.”

SEC. 2. Section 130105 of the Health and Safety Code is amended to read:

130105. The California Children and Families Trust Fund is hereby created in the State Treasury.

(a) The California Children and Families Trust Fund shall consist of moneys collected pursuant to the taxes imposed by Section 30131.2 of the Revenue and Taxation Code.

(b) All costs to implement this act shall be paid from moneys deposited in the California Children and Families Trust Fund.

(c) The State Board of Equalization shall determine within one year of the passage of this act the effect that additional taxes imposed on cigarettes and tobacco products by this act has on the consumption of cigarettes and tobacco products in this state. To the extent that a decrease in consumption is determined by the State Board of Equalization to be the direct result of additional taxes imposed by this act, the State Board of Equalization shall determine the fiscal effect the decrease in consumption has on the funding of any Proposition 99 (the Tobacco Tax and Health Protection Act of 1988) state health-related education or research programs in effect as of November 1, 1998, and the Breast Cancer Fund programs that are funded by excise taxes on cigarettes and tobacco products. Funds shall be transferred from the California Children and Families Trust Fund to those affected programs as necessary to offset the revenue decrease directly resulting from the imposition of additional taxes by this act. These reimbursements shall occur, and at any times, as determined necessary to further the intent of this subdivision.

(d) Moneys shall be allocated and appropriated from the California Children and Families Trust Fund as follows:
(1) Twenty percent shall be allocated and appropriated to separate accounts of the state commission for expenditure according to the following formula:

(A) Six percent shall be deposited in a Mass Media Communications Account for expenditures for communications to the general public utilizing television, radio, newspapers, and other mass media on subjects relating to and furthering the goals and purposes of this act, including, but not limited to, methods of nurturing and parenting that encourage proper childhood development, the informed selection of child care, information regarding health and social services, the prevention and cessation of tobacco, alcohol, and drug use by pregnant women, the detrimental effects of secondhand smoke on early childhood development, and to ensure that children are ready to enter school.

(B) Five percent shall be deposited in an Education Account for expenditures to ensure that children are ready to enter school and for programs relating to education, including, but not limited to, the development of educational materials, professional and parental education and training, and technical support for county commissions in the areas described in subparagraph (A) of paragraph (1) of subdivision (b) of Section 130125.

(C) Three percent shall be deposited in a Child Care Account for expenditures to ensure that children are ready to enter school and for programs relating to child care, including, but not limited to, the education and training of child care providers, the development of educational materials and guidelines for child care workers, and other areas described in subparagraph (B) of paragraph (1) of subdivision (b) of Section 130125.

(D) Three percent shall be deposited in a Research and Development Account for expenditures to ensure that children are ready to enter school and for the research and development of best practices and standards for all programs and services relating to early childhood development established pursuant to this act, and for the assessment and quality evaluation of those programs and services.

(E) One percent shall be deposited in an Administration Account for expenditures for the administrative functions of the state commission. Any funds not needed for the administrative functions of the state commission may be transferred to the Unallocated Account described in subparagraph (F), upon approval by the state commission.

(F) Two percent shall be deposited in an Unallocated Account for expenditure by the state commission for any of the purposes of this act described in Section 130100 provided that none of these moneys shall be expended for the administrative functions of the state commission.

(G) In the event that, for whatever reason, the expenditure of any moneys allocated and appropriated for the purposes specified in
subparagraphs (A) to (F), inclusive, is enjoined by a final judgment of a court of competent jurisdiction, then those moneys shall be available for expenditure by the state commission for mass media communication emphasizing the need to eliminate smoking and other tobacco use by pregnant women, the need to eliminate smoking and other tobacco use by persons under 18 years of age, and the need to eliminate exposure to secondhand smoke.

(H) Any moneys allocated and appropriated to any of the accounts described in subparagraphs (A) to (F), inclusive, that are not encumbered or expended within any applicable period prescribed by law shall (together with the accrued interest on the amount) revert to and remain in the same account for the next fiscal period.

(2) Eighty percent shall be allocated and appropriated to county commissions in accordance with Section 130140.

(A) The moneys allocated and appropriated to county commissions shall be deposited in each local Children and Families Trust Fund administered by each county commission, and shall be expended only for the purposes authorized by this act and in accordance with the county strategic plan approved by each county commission.

(B) Any moneys allocated and appropriated to any of the county commissions that are not encumbered or expended within any applicable period prescribed by law shall (together with the accrued interest on the amount) revert to and remain in the same local Children and Families Trust Fund for the next fiscal period under the same conditions as set forth in subparagraph (A).

(e) All grants, gifts, or bequests of money made to or for the benefit of the state commission from public or private sources to be used for early childhood development programs shall be deposited in the California Children and Families Trust Fund and expended for the specific purpose for which the grant, gift, or bequest was made. The amount of any such grant, gift, or bequest shall not be considered in computing the amount allocated and appropriated to the state commission pursuant to paragraph (1) of subdivision (d).

(f) All grants, gifts, or bequests of money made to or for the benefit of any county commission from public or private sources to be used for early childhood development programs shall be deposited in the local Children and Families Trust Fund and expended for the specific purpose for which the grant, gift, or bequest was made. The amount of any such grant, gift, or bequest shall not be considered in computing the amount allocated and appropriated to the county commissions pursuant to paragraph (2) of subdivision (d).

SEC. 3. Section 130125 of the Health and Safety Code is amended to read:
The powers and duties of the state commission shall include, but are not limited to, the following:

(a) Providing for statewide dissemination of public information and educational materials to members of the general public and to professionals for the purpose of developing appropriate awareness and knowledge regarding the promotion, support, and improvement of early childhood development.

(b) Adopting guidelines for an integrated and comprehensive statewide program of promoting, supporting, and improving early childhood development that enhances the intellectual, social, emotional, and physical development of children in California.

(1) The state commission’s guidelines shall, at a minimum, address the following matters:

(A) Parental education and support services in all areas required for, and relevant to, informed and healthy parenting. Examples of parental education shall include, but are not limited to, prenatal and postnatal infant and maternal nutrition, education and training in newborn and infant care and nurturing for optimal early childhood development, parenting and other necessary skills, child abuse prevention, and avoidance of tobacco, drugs, and alcohol during pregnancy. Examples of parental support services shall include, but are not limited to, family support centers offering an integrated system of services required for the development and maintenance of self-sufficiency, domestic violence prevention and treatment, tobacco and other substance abuse control and treatment, voluntary intervention for families at risk, and any other prevention and family services and counseling critical to successful early childhood development.

(B) The availability and provision of high quality, accessible, and affordable child care, both in-home and at child care facilities, that emphasizes education, training and qualifications of care providers, increased availability and access to child care facilities, resource and referral services, technical assistance for caregivers, and financial and other assistance to ensure appropriate child care for all households.

(C) The provision of child health care services that emphasize prevention, diagnostic screenings, and treatment not covered by other programs; and the provision of prenatal and postnatal maternal health care services that emphasize prevention, immunizations, nutrition, treatment of tobacco and other substance abuse, general health screenings, and treatment services not covered by other programs.

(2) The state commission shall conduct at least one public hearing on its proposed guidelines before they are adopted.

(3) The state commission shall, on at least an annual basis, periodically review its adopted guidelines and revise them as may be necessary or appropriate.
(c) Defining the results to be achieved by the adopted guidelines, and collecting and analyzing data to measure progress toward attaining these results.

(d) Providing for independent research, including the evaluation of any relevant programs, to identify the best standards and practices for optimal early childhood development, and establishing and monitoring demonstration projects.

(e) Soliciting input regarding program policy and direction from individuals and entities with experience in early childhood development, facilitating the exchange of information between these individuals and entities, and assisting in the coordination of the services of public and private agencies to deal more effectively with early childhood development.

(f) Providing technical assistance to county commissions in adopting and implementing county strategic plans for early childhood development.

(g) Reviewing and considering the annual audits and reports transmitted by the county commissions and, following a public hearing, adopting a written report that consolidates, summarizes, analyzes, and comments on those annual audits and reports.

(h) Applying for gifts, grants, donations, or contributions of money, property, facilities, or services from any person, corporation, foundation, or other entity, or from the state or any agency or political subdivision thereof, or from the federal government or any agency or instrumentality thereof, in furtherance of a statewide program of early childhood development.

(i) Entering into any contracts and allocating funds to county commissions as necessary or appropriate to carry out the provisions and purposes of this act.

(j) Making recommendations to the Governor and the Legislature for changes in state laws, regulations, and services necessary or appropriate to carry out an integrated and comprehensive program of early childhood development in an effective and cost-efficient manner.

SEC. 4. The Legislature finds and declares that this act furthers the California Children and Families First Act of 1998, enacted by Proposition 10 at the November 3, 1998, general election, and is consistent with its purposes.

CHAPTER 246

An act to amend Sections 24045.5 and 24045.85 of the Business and Professions Code, relating to alcoholic beverages.
The people of the State of California do enact as follows:

SECTION 1. Section 24045.5 of the Business and Professions Code is amended to read:

24045.5. The department in its discretion may issue a temporary permit to the transferee of any license to continue the operation of the premises during the period a transfer application for the license from person to person at the same premises is pending and when all the following conditions exist:

(a) The premises shall have been operated under a license within 30 days of the date of filing the application for a temporary permit.
(b) The license for the premises shall have been surrendered pursuant to rules of the department.
(c) The applicant for the temporary permit shall have filed with the department an application for transfer of the license at the premises to himself or herself.
(d) The application for the temporary permit shall be accompanied by a temporary permit fee of one hundred dollars ($100).

A temporary permit issued by the department pursuant to this section shall be for a period not to exceed 120 days. A temporary permit may be extended at the discretion of the department for an additional 120-day period upon payment of an additional fee of one hundred dollars ($100) and upon compliance with all conditions required herein. A temporary permit is a conditional permit and authorizes the holder thereof to sell the alcoholic beverages as would be permitted to be sold under the privileges of the license for which the transfer application has been filed with the department.

Purchase of beer, wine, and distilled spirits by the holder of a temporary permit shall be made only upon payment before or at the time of delivery in currency or by check. However, the holder of a temporary retail permit who also holds one or more retail licenses and is operating under the retail license or licenses in addition to the temporary permit, and who is not delinquent under the provisions of Section 25509 as to any retail license under which he or she operates, may purchase alcoholic beverages on credit under the temporary permit.

All checks received by a seller for alcoholic beverages purchased by the holder of a temporary retail permit shall be deposited not later than the second business day following the date the alcoholic beverages are delivered.

A check dishonored on presentation shall not be deemed payment. The receipt by the seller or his or her agent in good faith from a holder of a
temporary permit of a check dishonored on presentation shall not be cause for disciplinary action against the seller.

Transfer of the license for which the holder of a temporary permit has filed an application shall not be approved by the department until the holder of the temporary permit has filed with the department a statement executed under penalty of perjury that all current obligations have been discharged, and that all outstanding checks issued by him or her in payment for alcoholic beverages will be honored on presentation.

It shall not be a violation of this section or otherwise grounds for disciplinary action for any licensee to extend credit to the holder of a temporary permit or to receive payment from the permittee in a manner other than authorized herein unless the seller had knowledge of the fact that the purchaser was operating under a temporary permit. Knowledge of the fact may be established by evidence, including, but not limited to, evidence that, at the time of receipt of payment or the extension of credit, the premises operated under a temporary permit were posted with the notice required by Section 23985, or the holder of the temporary permit had recorded notice as required by Section 24073, or the holder of the temporary permit had published notice as required by Section 23986, or the holder of the temporary permit had recorded and published notice pursuant to Division 6 (commencing with Section 6101) of the Commercial Code.

Refusal by the department to issue or extend a temporary permit shall not entitle the applicant to petition for the permit pursuant to Section 24011, or to a hearing pursuant to Section 24012. Articles 2 (commencing with Section 23985) and 3 (commencing with Section 24011) shall not apply to temporary permits.

Notwithstanding any other provision of law, a temporary permit may be canceled or suspended summarily at anytime if the department determines that good cause for the cancellation or suspension exists. Chapter 8 (commencing with Section 24300) shall not apply to temporary permits.

Application for a temporary permit shall be on any form the department shall prescribe. If an application for temporary permit is withdrawn before issuance or is refused by the department, the fee which accompanied the application shall be refunded in full, and Section 23959 shall not apply. Fees received by the department for issuance of temporary permits shall be deposited in the Alcohol Beverage Control Fund as provided in Section 25761.

SEC. 2. Section 24045.85 of the Business and Professions Code is amended to read:

24045.85. The department may issue a special on-sale beer, wine, or distilled spirits license to any symphony association organized as a nonprofit corporation more than 30 years before the date of application
and which is exempt from the payment of income taxes under Section 23701d of the Revenue and Taxation Code and Section 501(c)(3) of the Internal Revenue Code of 1954 of the United States.

A symphony association holding a license under this section may sell and serve alcoholic beverages only to persons attending concerts on the licensed premises. Sales of alcoholic beverages shall only be permitted, subject to Section 25631, during the period commencing two hours before the performance and ending one hour after the performance.

The applicant for a license shall accompany the application with an original fee of three hundred dollars ($300) and shall pay an annual renewal fee as provided in Section 23320.

Original licenses may be issued pursuant to this section until January 1, 1987; thereafter no new licenses shall be issued. Licenses originally issued pursuant to this section prior to January 1, 1987, may continue to be renewed annually by the holder thereof.

CHAPTER 247

An act to add Section 116.225 to the Code of Civil Procedure, relating to small claims.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 116.225 is added to the Code of Civil Procedure, to read:

116.225. An agreement entered into or renewed on or after January 1, 2003, establishing a forum outside of California for an action arising from an offer or provision of goods, services, property, or extensions of credit primarily for personal, family, or household purposes that is otherwise within the jurisdiction of a small claims court of this state is contrary to public policy and is void and unenforceable.

CHAPTER 248

An act to amend Section 366 of the Streets and Highways Code, relating to highways.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]
The people of the State of California do enact as follows:

SECTION 1. Section 366 of the Streets and Highways Code is amended to read:

366. (a) Route 66 is from Route 30 in La Verne to Route 215 in San Bernardino.

(b) (1) Notwithstanding subdivision (a), the commission may relinquish to the City of Rancho Cucamonga the portion of Route 66 that is located within the city limits, upon terms and conditions the commission finds to be in the best interests of the state.

     (2) A relinquishment under this subdivision shall become effective immediately following the recordation by the county recorder of the relinquishment resolution containing the commission’s approval of the terms and conditions of the relinquishment.

     (3) On and after the effective date of the relinquishment, both of the following shall occur:

         (A) The portion of Route 66 relinquished under this subdivision shall cease to be a state highway.

         (B) The portion of Route 66 relinquished under this subdivision may not be considered for future adoption under Section 81.

(c) The City of Rancho Cucamonga shall ensure the continuity of traffic flow on the relinquished portion of Route 66, including any traffic signal progression.

(d) For relinquished portions of Route 66, the City of Rancho Cucamonga shall maintain signs directing motorists to the continuation of Route 66.

SEC. 1.5. Section 366 of the Streets and Highways Code is amended to read:

366. (a) Route 66 is from Route 210 near San Dimas to Route 215 in San Bernardino.

(b) (1) Notwithstanding subdivision (a), the commission may relinquish to the City of Fontana and the City of Rancho Cucamonga the respective portion of Route 66 that is located within the city limits or the sphere of influence of each city, upon terms and conditions the commission finds to be in the best interests of the state.

     (2) A relinquishment under this subdivision shall become effective immediately following the recordation by the county recorder of the relinquishment resolution containing the commission’s approval of the terms and conditions of the relinquishment.

     (3) On and after the effective date of the relinquishment both of the following shall occur:

         (A) The portion of Route 66 relinquished under this subdivision shall cease to be a state highway.
(B) The portion of Route 66 relinquished under this subdivision may not be considered for future adoption under Section 81.

(c) The city shall ensure the continuity of traffic flow on the relinquished portion of Route 66, including any traffic signal progression.

(d) For relinquished portions of Route 66, the city shall maintain signs directing motorists to the continuation of Route 66.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 366 of the Streets and Highways Code proposed by both this bill and SB 857. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2003, (2) each bill amends Section 366 of the Streets and Highways Code, and (3) this bill is enacted after SB 857, in which case Section 1 of this bill shall not become operative.

CHAPTER 249

An act to amend Section 11160 of, to amend, renumber, and add Section 11171 to, and to add and repeal Section 11160.2 of, the Penal Code, relating to crime prevention.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. It is the intent of the Legislature that medical forensic forms and reporting forms be available on the Internet, from a central Web site, such as one operated by the Office of Criminal Justice Planning, or via links in that Web site to other state department Web sites providing these forms.

SEC. 2. Section 11160 of the Penal Code is amended to read:

11160. (a) Any health practitioner employed in a health facility, clinic, physician’s office, local or state public health department, or a clinic or other type of facility operated by a local or state public health department who, in his or her professional capacity or within the scope of his or her employment, provides medical services for a physical condition to a patient whom he or she knows or reasonably suspects is a person described as follows, shall immediately make a report in accordance with subdivision (b):

(1) Any person suffering from any wound or other physical injury inflicted by his or her own act or inflicted by another where the injury is by means of a firearm.
(2) Any person suffering from any wound or other physical injury inflicted upon the person where the injury is the result of assaultive or abusive conduct.

(b) Any health practitioner employed in a health facility, clinic, physician’s office, local or state public health department, or a clinic or other type of facility operated by a local or state public health department shall make a report regarding persons described in subdivision (a) to a local law enforcement agency as follows:

(1) A report by telephone shall be made immediately or as soon as practically possible.

(2) A written report shall be prepared on the standard form developed in compliance with paragraph (4) of this subdivision, and Section 11160.2, and adopted by the Office of Criminal Justice Planning as of December 31, 2003, or on a form developed and adopted by another state agency that otherwise fulfills the requirements of the standard form. The completed form shall be sent to a local law enforcement agency within two working days of receiving the information regarding the person.

(3) A local law enforcement agency shall be notified and a written report shall be prepared and sent pursuant to paragraphs (1) and (2) even if the person who suffered the wound, other injury, or assaultive or abusive conduct has expired, regardless of whether or not the wound, other injury, or assaultive or abusive conduct was a factor contributing to the death, and even if the evidence of the conduct of the perpetrator of the wound, other injury, or assaultive or abusive conduct was discovered during an autopsy.

(4) The report shall include, but shall not be limited to, the following:

(A) The name of the injured person, if known.

(B) The injured person’s whereabouts.

(C) The character and extent of the person’s injuries.

(D) The identity of any person the injured person alleges inflicted the wound, other injury, or assaultive or abusive conduct upon the injured person.

(c) For the purposes of this section, “injury” shall not include any psychological or physical condition brought about solely through the voluntary administration of a narcotic or restricted dangerous drug.

(d) For the purposes of this section, “assaultive or abusive conduct” shall include any of the following offenses:

(1) Murder, in violation of Section 187.

(2) Manslaughter, in violation of Section 192 or 192.5.

(3) Mayhem, in violation of Section 203.

(4) Aggravated mayhem, in violation of Section 205.

(5) Torture, in violation of Section 206.

(6) Assault with intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220.
(7) Administering controlled substances or anesthetic to aid in commission of a felony, in violation of Section 222.
(8) Battery, in violation of Section 242.
(9) Sexual battery, in violation of Section 243.4.
(10) Incest, in violation of Section 285.
(11) Throwing any vitriol, corrosive acid, or caustic chemical with intent to injure or disfigure, in violation of Section 244.
(12) Assault with a stun gun or taser, in violation of Section 244.5.
(13) Assault with a deadly weapon, firearm, assault weapon, or machinegun, or by means likely to produce great bodily injury, in violation of Section 245.
(14) Rape, in violation of Section 261.
(15) Spousal rape, in violation of Section 262.
(16) Procuring any female to have sex with another man, in violation of Section 266, 266a, 266b, or 266c.
(17) Child abuse or endangerment, in violation of Section 273a or 273d.
(18) Abuse of spouse or cohabitant, in violation of Section 273.5.
(19) Sodomy, in violation of Section 286.
(20) Lewd and lascivious acts with a child, in violation of Section 288.
(21) Oral copulation, in violation of Section 288a.
(22) Sexual penetration, in violation of Section 289.
(23) Elder abuse, in violation of Section 368.
(24) An attempt to commit any crime specified in paragraphs (1) to (23), inclusive.

(e) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of violence that is required to be reported pursuant to this section, and when there is an agreement among these persons to report as a team, the team may select by mutual agreement a member of the team to make a report by telephone and a single written report, as required by subdivision (b). The written report shall be signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(f) The reporting duties under this section are individual, except as provided in subdivision (e).

(g) No supervisor or administrator shall impede or inhibit the reporting duties required under this section and no person making a report pursuant to this section shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established, except that these procedures shall not be inconsistent with this article.
The internal procedures shall not require any employee required to make a report under this article to disclose his or her identity to the employer.

(h) For the purposes of this section, it is the Legislature's intent to avoid duplication of information.

SEC. 3. Section 11160.2 is added to the Penal Code, to read:

11160.2. (a) A standard state form for reporting crimes pursuant to Section 11160 shall be developed by the Office of Criminal Justice Planning (OCJP) in cooperation with the State Department of Health Services, the Department of Aging and the ombudsman program, the State Department of Social Services, law enforcement agencies, the Department of Justice, the California Association of Crime Lab Directors, the California District Attorneys Association, the California State Sheriff’s Association, the California Medical Association, the California Police Chiefs’ Association, domestic violence advocates, the California Medical Training Center, and adult protective services, and shall be adopted by OCJP.

(b) The form described in subdivision (a) shall include a place for a notation concerning each of the following:

(1) The requirements of paragraph (4) of subdivision (b) of Section 11160.

(2) The name, address, telephone number, and occupation of the person reporting.

(3) The address of the injured person, if known.

(4) The date, time, and place of the incident, if known.

(5) Other details, including the reporter’s observations and beliefs concerning the incident.

(6) Any statements relating to the incident made by the victim.

(7) The name of any individuals believed to have knowledge of the incident.

(c) The form described in subdivision (a) shall be completed by OCJP not later than one year after the enactment of this section.

(d) The form described in subdivision (a) shall be developed with the highest regard for the privacy of the individual who is the subject of the crime reported on that form and the safety of any victims or family members of victims that may be affected by the crime reported on the form.

(e) Nothing provided in this section is intended to replace or impede any medical treatment of patients or related medical documentation.

(f) This section shall remain in effect until January 1, 2004, and on that date is repealed, unless a later enacted statute deletes or extends that date.

SEC. 3. Section 11171 of the Penal Code is amended and renumbered to read:
11171.2. (a) A physician and surgeon or dentist or their agents and by their direction may take skeletal X-rays of the child without the consent of the child’s parent or guardian, but only for purposes of diagnosing the case as one of possible child abuse or neglect and determining the extent of the child abuse or neglect.

(b) Neither the physician-patient privilege nor the psychotherapist-patient privilege applies to information reported pursuant to this article in any court proceeding or administrative hearing.

SEC. 4. Section 11171 is added to the Penal Code, to read:

11171. (a) (1) The Legislature hereby finds and declares that adequate protection of victims of child physical abuse or neglect has been hampered by the lack of consistent and comprehensive medical examinations.

(2) Enhancing examination procedures, documentation, and evidence collection relating to child abuse or neglect will improve the investigation and prosecution of child abuse or neglect as well as other child protection efforts.

(b) On or before January 1, 2004, the Office of Criminal Justice Planning shall, in cooperation with the State Department of Social Services, the Department of Justice, the California Association of Crime Lab Directors, the California State District Attorneys Association, the California State Sheriffs’ Association, the California Peace Officers Association, the California Medical Association, the California Police Chiefs’ Association, child advocates, the California Medical Training Center, child protective services, and other appropriate experts, establish medical forensic forms, instructions, and examination protocol for victims of child physical abuse or neglect using as a model the form and guidelines developed pursuant to Section 19823.5.

(c) The form shall include, but not be limited to, a place for notation concerning each of the following:

(1) Any notification of injuries or any report of suspected child physical abuse or neglect to law enforcement authorities or children’s protective services, in accordance with existing reporting procedures.

(2) Addressing relevant consent issues, if indicated.

(3) The taking of a patient history of child physical abuse or neglect that includes other relevant medical history.

(4) The performance of a physical examination for evidence of child physical abuse or neglect.

(5) The collection or documentation of any physical evidence of child physical abuse or neglect, including any recommended photographic procedures.

(6) The collection of other medical or forensic specimens, including drug ingestion or toxication, as indicated.

(7) Procedures for the preservation and disposition of evidence.
(8) Complete documentation of medical forensic exam findings with recommendations for diagnostic studies, including blood tests and X-rays.

(9) An assessment as to whether there are findings that indicate physical abuse or neglect.

(c) The forms shall become part of the patient’s medical record pursuant to guidelines established by the advisory committee of the Office of Criminal Justice Planning and subject to the confidentiality laws pertaining to the release of a medical forensic examination records.

(D) The forms shall be made accessible for use on the Internet.

CHAPTER 250

An act relating to recall elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. The Legislature finds and declares that there exists a need for an experienced, objective, impartial, and professional entity to conduct any recall or special election that is held in the City of South Gate in the County of Los Angeles during the 2002 and 2003 calendar years. It is the intent of the Legislature in enacting this statute to ensure the integrity, efficiency, and lawful conduct of recall and special elections in the City of South Gate, to avoid real bias or the perception of bias or impropriety, and to strengthen the public’s confidence in the fair and free operation of the election process and the reporting of results therefrom.

SEC. 2. Any recall or special election in the City of South Gate held during the 2002 and 2003 calendar years shall be administered, for all purposes, by the Los Angeles County Registrar-Recorder upon approval by the Los Angeles County Board of Supervisors.

SEC. 3. (a) Consistent with subdivision (a) of Section 13001 of the Elections Code, the City of South Gate shall pay from its city treasury for all expenses authorized and necessarily incurred in conducting any special or recall election held during the 2002 and 2003 calendar years. These expenses shall be paid to the County of Los Angeles to reimburse the county for the costs of conducting the special or recall election.

(b) If payment is not made in a timely manner, and after sufficient notice to the City of South Gate, the Los Angeles County Board of
Supervisors may pass a resolution informing the Controller that some or all of the amount due is outstanding.

(c) Following receipt of the resolution, the Controller shall deduct from apportionments scheduled for periodic distribution to the City of South Gate, from any unrestricted funds or moneys, the outstanding balance owed and instead pay the amount to the County of Los Angeles.

SEC. 4. The Legislature finds and declares that because of the unique circumstances of the City of South Gate, relating to the conduct of elections, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution. Therefore, it is necessary to enact a special statute applicable only to the City of South Gate.

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 recall elections in the City of South Gate proceed in a timely fashion in accordance with state law, and to preserve the public’s confidence in the electoral process and the voters’ reserve power to recall elected officials, it is necessary that this act take effect immediately.

CHAPTER 251

An act to amend Section 366 of the Streets and Highways Code, relating to highways.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 366 of the Streets and Highways Code is amended to read:

366. (a) Route 66 is from Route 30 in La Verne to Route 215 in San Bernardino.

(b) (1) Notwithstanding subdivision (a), the commission may relinquish to the City of Fontana the portion of Route 66 that is located within the city limits or the sphere of influence of the city, upon terms and conditions the commission finds to be in the best interests of the state.

(2) A relinquishment under this subdivision shall become effective immediately following the recordation by the county recorder of the
relinquishment resolution containing the commission’s approval of the terms and conditions of the relinquishment.

(3) On and after the effective date of the relinquishment both of the following shall occur:

(A) The portion of Route 66 relinquished under this subdivision shall cease to be a state highway.

(B) The portion of Route 66 relinquished under this subdivision may not be considered for future adoption under Section 81.

(c) The City of Fontana shall ensure the continuity of traffic flow on the relinquished portion of Route 66, including any traffic signal progression.

(d) For relinquished portions of Route 66, the City of Fontana shall maintain signs directing motorists to the continuation of Route 66.

SEC. 1.5. Section 366 of the Streets and Highways Code is amended to read:

366. (a) Route 66 is from Route 210 near San Dimas to Route 215 in San Bernardino.

(b) (1) Notwithstanding subdivision (a), the commission may relinquish to the City of Fontana and the City of Rancho Cucamonga the respective portion of Route 66 that is located within the city limits or the sphere of influence of each city, upon terms and conditions the commission finds to be in the best interests of the state.

(2) A relinquishment under this subdivision shall become effective immediately following the recordation by the county recorder of the relinquishment resolution containing the commission’s approval of the terms and conditions of the relinquishment.

(3) On and after the effective date of the relinquishment, both of the following shall occur:

(A) The portion of Route 66 relinquished under this subdivision shall cease to be a state highway.

(B) The portion of Route 66 relinquished under this subdivision may not be considered for future adoption under Section 81.

(c) The city shall ensure the continuity of traffic flow on the relinquished portion of Route 66, including any traffic signal progression.

(d) For relinquished portions of Route 66, the city shall maintain signs directing motorists to the continuation of Route 66.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 366 of the Streets and Highways Code proposed by both this bill and SB 246. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2003, (2) each bill amends Section 366 of the Streets and Highways Code, and (3) this bill is enacted...
after SB 246, in which case Section 1 of this bill shall not become operative.

CHAPTER 252

An act to amend Section 89903 of the Education Code, relating to the California State University.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 89903 of the Education Code is amended to read:

89903. (a) (1) Each auxiliary organization formed pursuant to this article shall have a board of directors composed, both as to size and categories of membership, in accordance with regulations established by the Trustees of the California State University.

(2) If, in any fiscal year, a majority of the funding of the auxiliary organization is received from student fees collected on a campus or systemwide, at least a majority of the board of directors of that auxiliary organization shall consist of California State University students with full voting privileges on that board. This paragraph shall only be applicable to effectuate a change in the membership of a board of directors of an auxiliary organization if the trustees determine that there is no legal or contractual barrier to changing the governing structure of that organization. In the event that the trustees determine that there is a legal or contractual barrier to changing the governing structure of an auxiliary organization, information relating to that determination shall be reported, in a timely manner, to that auxiliary organization and any affected student body organization.

(b) Each governing board shall, during each fiscal year, hold at least one business meeting each quarter in accordance with Article 2 (commencing with Section 89920). The board shall have the benefit of the advice and counsel of at least one attorney admitted to practice law in this state and at least one licensed certified public accountant. Neither the attorney at law nor the certified public accountant need be members of the board.
(c) No auxiliary organization shall accept any grant, contract, bequest, trust, or gift, unless it is so conditioned that it may be used only for purposes consistent with policies of the trustees.

CHAPTER 253

An act to amend Section 48901.5 of the Education Code, relating to instruction.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. It is not the intent of the Legislature to encourage pupils to use electronic signaling devices at school. Nevertheless, the Legislature recognizes that the governing boards of school districts are in the best position to determine what policy on the use and possession of electronic signaling devices is best for their schools.

SEC. 2. Section 48901.5 of the Education Code is amended to read:

48901.5. (a) The governing board of each school district, or its designee, may regulate the possession or use of any electronic signaling device that operates through the transmission or receipt of radio waves, including, but not limited to, paging and signaling equipment, by pupils of the school district while the pupils are on campus, while attending school-sponsored activities, or while under the supervision and control of school district employees.

(b) No pupil shall be prohibited from possessing or using an electronic signaling device that is determined by a licensed physician and surgeon to be essential for the health of the pupil and use of which is limited to purposes related to the health of the pupil.

CHAPTER 254

An act to amend Sections 530.5 and 530.8 of the Penal Code, relating to identity theft.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]
The people of the State of California do enact as follows:

SECTION 1. Section 530.5 of the Penal Code is amended to read:
530.5. (a) Every person who willfully obtains personal identifying information, as defined in subdivision (b), of another person, and uses that information for any unlawful purpose, including to obtain, or attempt to obtain, credit, goods, services, or medical information in the name of the other person without the consent of that person, is guilty of a public offense, and upon conviction therefor, shall be punished either by imprisonment in a county jail not to exceed one year, a fine not to exceed one thousand dollars ($1,000), or both that imprisonment and fine, or by imprisonment in the state prison, a fine not to exceed ten thousand dollars ($10,000), or both that imprisonment and fine.

(b) “Personal identifying information,” as used in this section, means the name, address, telephone number, health insurance identification number, taxpayer identification number, school identification number, state or federal driver’s license number, or identification number, social security number, place of employment, employee identification number, mother’s maiden name, demand deposit account number, savings account number, checking account number, PIN (personal identification number) or password, alien registration number, government passport number, date of birth, unique biometric data including fingerprint, facial scan identifiers, voice print, retina or iris image, or other unique physical representation, unique electronic data including identification number, address, or routing code, telecommunication identifying information or access device, information contained in a birth or death certificate, or credit card number of an individual person.

(c) In any case in which a person willfully obtains personal identifying information of another person, uses that information to commit a crime in addition to a violation of subdivision (a), and is convicted of that crime, the court records shall reflect that the person whose identity was falsely used to commit the crime did not commit the crime.

(d) Every person who, with the intent to defraud, acquires, transfers, or retains possession of the personal identifying information, as defined in subdivision (b), of another person is guilty of a public offense, and upon conviction therefor, shall be punished by imprisonment in a county jail not to exceed one year, or a fine not to exceed one thousand dollars ($1,000), or by both that imprisonment and fine.

SEC. 2. Section 530.8 of the Penal Code is amended to read:
530.8. (a) If a person discovers that an application in his or her name for a loan, credit line or account, credit card, charge card, public utility service, or commercial mobile radio service has been filed with
any person or entity by an unauthorized person, or that an account in his or her name has been opened with a bank, trust company, savings association, credit union, public utility, or commercial mobile radio service provider by an unauthorized person, then, upon presenting to the person or entity with which the application was filed or the account was opened a copy of a police report prepared pursuant to Section 530.6 and identifying information in the categories of information that the unauthorized person used to complete the application or to open the account, the person, or a law enforcement officer specified by the person, shall be entitled to receive information related to the application or account, including a copy of the unauthorized person’s application or application information and a record of transactions or charges associated with the application or account. Upon request by the person in whose name the application was filed or in whose name the account was opened, the person or entity with which the application was filed shall inform him or her of the categories of identifying information that the unauthorized person used to complete the application or to open the account. The person or entity with which the application was filed or the account was opened shall provide copies of all forms and information required by this section, without charge, within 10 business days of receipt of the person’s request and submission of the required copy of the police report and identifying information.

(b) Any request made pursuant to subdivision (a) to a person or entity subject to the provisions of Section 2891 of the Public Utilities Code shall be in writing and the requesting person shall be deemed to be the subscriber for purposes of that section.

(c) (1) Before a person or entity provides copies to a law enforcement officer pursuant to subdivision (a), the person or entity may require the requesting person to submit a signed and dated statement by which the requesting person does all of the following:

(A) Authorizes disclosure for a stated period.
(B) Specifies the name of the agency or department to which the disclosure is authorized.
(C) Identifies the types of records that the requesting person authorizes to be disclosed.

(2) The person or entity shall include in the statement to be signed by the requesting person a notice that the requesting person has the right at any time to revoke the authorization.

(d) As used in this section, “law enforcement officer” means a peace officer as defined by Section 830.1 of the Penal Code.

(e) As used in this section, “commercial mobile radio service” means “commercial mobile radio service” as defined in section 20.3 of Title 47 of the Code of Federal Regulations.
SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 255

An act to add Section 2892.5 to the Public Utilities Code, relating to public utilities.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 2892.5 is added to the Public Utilities Code, to read:

2892.5. (a) As used in this section, the following terms have the following meanings:

(1) “Commercial mobile radio service” has the same meaning as the term “commercial mobile service,” as defined in subsection (d) of Section 332 of Title 47 of the United States Code.

(2) “Public safety agency” has the same meaning as that term is defined in Section 53102 of the Government Code.

(b) A provider of commercial mobile radio service may enter into a contract with a public safety agency to give the transmissions of public safety agency end users of that service priority over the transmissions of other persons or entities. The contract shall comply with applicable federal law.

CHAPTER 256

An act to amend Section 13823.93 of the Penal Code, relating to medical training.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]
The people of the State of California do enact as follows:

SECTION 1. Section 13823.93 of the Penal Code is amended to read:

13823.93. (a) For purposes of this section, the following definitions apply:

(1) “Medical personnel” includes physicians, nurse practitioners, physician assistants, nurses, and other health care providers, as appropriate.

(2) To “perform a medical evidentiary examination” means to evaluate, collect, preserve, and document evidence, interpret findings, and document examination results.

(b) To ensure the delivery of standardized curriculum, essential for consistent examination procedures throughout the state, one hospital-based training center shall be established through a competitive bidding process, to train medical personnel on how to perform medical evidentiary examinations for victims of child abuse or neglect, sexual assault, domestic violence, elder abuse, and abuse or assault perpetrated against persons with disabilities. The center also shall provide training for investigative and court personnel involved in dependency and criminal proceedings, on how to interpret the findings of medical evidentiary examinations.

The training provided by the training center shall be made available to medical personnel, law enforcement, and the courts throughout the state.

(c) The training center shall meet all of the following criteria:

(1) Recognized expertise and experience in providing medical evidentiary examinations for victims of child abuse or neglect, sexual assault, domestic violence, elder abuse, and abuse or assault perpetrated against persons with disabilities.

(2) Recognized expertise and experience implementing the protocol established pursuant to Section 13823.5.

(3) History of providing training, including, but not limited to, the clinical supervision of trainees and the evaluation of clinical competency.

(4) Recognized expertise and experience in the use of advanced medical technology and training in the evaluation of victims of child abuse or neglect, sexual assault, domestic violence, elder abuse, and abuse or assault perpetrated against persons with disabilities.

(5) Significant history in working with professionals in the field of criminalistics.

(6) Established relationships with local crime laboratories, clinical laboratories, law enforcement agencies, district attorney’s offices, child...
protective services, victim advocacy programs, and federal investigative agencies.

(7) The capacity for developing a telecommunication network between primary, secondary, and tertiary medical providers.

(8) History of leadership in working collaboratively with medical forensic experts, criminal justice experts, investigative social worker experts, state criminal justice, social services, health and mental health agencies, and statewide professional associations representing the various disciplines, especially those specified in paragraph (6) of subdivision (d).

(9) History of leadership in working collaboratively with state and local victim advocacy organizations, especially those addressing sexual assault and domestic violence.

(10) History and experience in the development and delivery of standardized curriculum for forensic medical experts, criminal justice professionals, and investigative social workers.

(11) History of research, particularly involving data bases, in the area of child physical and sexual abuse, sexual assault, elder abuse, or domestic violence.

(d) The training center shall do all of the following:

(1) Develop and implement a standardized training program for medical personnel that has been reviewed and approved by a multidisciplinary peer review committee.

(2) Develop a telecommunication system network between the training center and other areas of the state, including rural and midsized counties. This service shall provide case consultation to medical personnel, law enforcement, and the courts and provide continuing medical education.

(3) Provide ongoing basic, advanced, and specialized training programs.

(4) Develop guidelines for the reporting and management of child physical abuse and neglect, domestic violence, and elder abuse.

(5) Develop guidelines for evaluating the results of training for the medical personnel performing examinations.

(6) Provide standardized training for law enforcement officers, district attorneys, public defenders, investigative social workers, and judges on medical evidentiary examination procedures and the interpretation of findings. This training shall be developed and implemented in collaboration with the Peace Officer Standards and Training Program, the California District Attorney’s Association, the California Peace Officers Association, the California Police Chiefs Association, the California State Sheriffs Association, the California Association of Crime Laboratory Directors, the California Sexual Assault Investigators Association, the California Alliance Against
Domestic Violence, the Statewide California Coalition for Battered Women, the Family Violence Prevention Fund, child victim advocacy organizations, the California Welfare Directors Association, the California Coalition Against Sexual Assault, the Department of Justice, the Office of Criminal Justice Planning, the Child Welfare Training Program, and the University of California extension programs.

(7) Promote an interdisciplinary approach in the assessment and management of child abuse and neglect, sexual assault, elder abuse, domestic violence, and abuse or assault against persons with disabilities.

(8) Provide training in the dynamics of victimization, including, but not limited to, rape trauma syndrome, battered woman syndrome, the effects of child abuse and neglect, and the various aspects of elder abuse. This training shall be provided by individuals who are recognized as experts within their respective disciplines.

(e) Nothing in this section shall be construed to change the scope of practice for any health care provider, as defined in other provisions of law.

CHAPTER 257

An act to add Sections 7400.1 and 7400.3 to, and to amend Section 7411 of, the Elections Code, relating to Republican county central committees.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 7400.1 is added to the Elections Code, to read:

7400.1. (a) Notwithstanding Sections 7400 and 7401, in the County of Sacramento, the county central committee shall be elected by supervisor districts, and the number to be elected from any supervisor district shall be determined as follows: There shall be taken the number of votes cast in the supervisor district at the last gubernatorial election for that party’s candidate for Governor, or, if the party did not have a candidate for Governor, for the candidate of the party voted on throughout the state who received the greatest number of votes and who was the candidate of that party alone. This number shall be divided by one-thirtieth of the number of votes cast in Sacramento County for Governor or, where the party did not have a candidate for Governor, for the candidate mentioned above. The integer next larger than the quotient
obtained by that division shall constitute the number of members of the committee to be elected by that party in that supervisor district.

(b) The Sacramento County Central Committee shall be composed of not less than 31 members. If the procedure outlined above would result in less than 31 members being elected for any committee, the number of votes cast for this party’s candidate in each supervisor district shall be divided by an amount sufficiently smaller than one-thirtieth of the votes cast for Governor in Sacramento County as to give a membership on the committee equal to or the nearest amount that is greater than 31 members.

SEC. 2. Section 7400.3 is added to the Elections Code, to read:

7400.3. (a) Notwithstanding Sections 7400 and 7401, in the County of Santa Clara, the county central committee shall be elected by supervisor districts, and the number to be elected from any supervisor district shall be determined as follows:

(1) There shall be taken the number of votes cast in the supervisor district at the last gubernatorial election for that party’s candidate for Governor, or, if the party did not have a candidate for Governor, for the candidate of the party voted on throughout the state who received the greatest number of votes and who was the candidate of that party alone.

(2) This number shall be divided by one-twenty-second of the number of votes cast in Santa Clara County for Governor or, where the party did not have a candidate for Governor, for the candidate mentioned above. The integer next larger than the quotient obtained by that division shall constitute the number of members of the committee to be elected by that party in that supervisor district.

(b) The Santa Clara County Central Committee shall be composed of not less than 23 members. If the procedure outlined above would result in less than 23 members being elected to the committee, the number of votes cast for this party’s candidate in each supervisor district shall be divided by an amount sufficiently smaller than one-twenty-second of the votes cast for Governor in Santa Clara County as to give a membership on the committee equal to or the nearest amount that is greater than 23 members.

SEC. 3. Section 7411 of the Elections Code is amended to read:

7411. (a) Any member of a committee, other than an ex officio member, who misses four regularly called meetings within one 12-month period shall be removed from the committee concerned, unless his or her absence is caused by illness or temporary absence from the county on the date of the meeting.

(b) A committee may, in its sole discretion and in accordance with its bylaws, remove a member who misses four or more regularly called meetings within one 12-month period, regardless of the reasons for the absences.
SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 258

An act to amend Section 19442 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 19442 of the Revenue and Taxation Code is amended to read:

19442. (a) It is the intent of the Legislature that the Franchise Tax Board, its staff, and the Attorney General pursue settlements as authorized under this section with respect to civil tax matters in dispute that are the subject of protests, appeals, or refund claims, consistent with a reasonable evaluation of the costs and risks associated with litigation of these matters.

(b) (1) Except as provided in paragraph (3) and subject to paragraph (2), the executive officer or chief counsel, if authorized by the executive officer, of the Franchise Tax Board may recommend to the Franchise Tax Board, itself, a settlement of any civil tax matter in dispute.

(2) No recommendation of settlement shall be submitted to the Franchise Tax Board, itself, unless and until that recommendation has been submitted by the executive officer or chief counsel to the Attorney General. Within 30 days of receiving that recommendation, the Attorney General shall review the recommendation and advise in writing the executive officer or chief counsel of the Franchise Tax Board of his or her conclusions as to whether the recommendation is reasonable from an overall perspective. The executive officer or chief counsel shall, with each recommendation of settlement submitted to the Franchise Tax Board, itself, also submit the Attorney General’s written conclusions obtained pursuant to this paragraph.
(3) (A) A settlement of any civil tax matter in dispute involving a reduction of tax or penalties in settlement, the total of which reduction of tax and penalties in settlement does not exceed seven thousand five hundred dollars ($7,500), may be approved by the executive officer and chief counsel, jointly. The executive officer shall notify the Franchise Tax Board, itself, of any settlement approved pursuant to this paragraph.

(B) On January 1 of each calendar year beginning on or after January 1, 2004, the Franchise Tax Board shall increase the amount specified in subparagraph (A) to the amount computed under this subparagraph. That adjustment shall be made as follows:

(i) The Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index, as modified for rental equivalent homeownership for all items, from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(ii) The Franchise Tax Board shall then:

(I) Compute the percentage change in the California Consumer Price Index from the later of June 2003 or June of the calendar year prior to the last increase in the amount specified in subparagraph (A).

(II) Compute the inflation adjustment factor by adding 100 percent to the percentage change so computed, and converting the resulting percentage to the decimal equivalent.

(III) Multiply the amount specified in subparagraph (A) for the immediately preceding calendar year, as adjusted under this paragraph, by the inflation adjustment factor determined in subclause (II), and round off the resulting product to the nearest one hundred dollars ($100).

(c) Whenever a reduction of tax or penalties or total tax and penalties in settlement in excess of five hundred dollars ($500) is approved pursuant to this section, there shall be placed on file in the office of the executive officer of the Franchise Tax Board a public record with respect to that settlement. The public record shall include all of the following information:

(1) The name or names of the taxpayers who are parties to the settlement.

(2) The total amount in dispute.

(3) The amount agreed to pursuant to the settlement.

(4) A summary of the reasons why the settlement is in the best interests of the State of California.

(5) For any settlement approved by the Franchise Tax Board, itself, the Attorney General’s conclusion as to whether the recommendation of settlement was reasonable from an overall perspective.

The public record shall not include any information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or
organizational structure, that if disclosed, would adversely affect the taxpayer or the national defense.

(d) The members of the Franchise Tax Board shall not participate in the settlement of tax matters pursuant to this section, except as provided in subdivision (e).

(e) (1) Any recommendation for settlement shall be approved or disapproved by the Franchise Tax Board, itself, within 45 days of the submission of that recommendation. Any recommendation for settlement that is not either approved or disapproved by the Franchise Tax Board, itself, within 45 days of the submission of that recommendation shall be deemed approved. Upon approval of a recommendation for settlement, the matter shall be referred back to the executive officer or chief counsel in accordance with the decision of the Franchise Tax Board.

(2) Disapproval of a recommendation for settlement shall be made only by a majority vote of the Franchise Tax Board. Where the Franchise Tax Board disapproves a recommendation for settlement, the matter shall be remanded to Franchise Tax Board staff for further negotiation, and may be resubmitted to the Franchise Tax Board, in the same manner and subject to the same requirements as the initial submission, at the discretion of the executive officer or chief counsel.

(f) (1) All settlements entered into pursuant to this section shall be final and nonappealable, except upon a showing of fraud or misrepresentation with respect to a material fact.

(2) A settlement may include matters that may otherwise be included in an agreement under Section 19441.

(3) Settlements pursuant to this section do not preclude assessments or refunds under Section 19059, 19060, or 19311 (relating to application of federal adjustments).

(g) (1) Any proceedings undertaken by the Franchise Tax Board itself pursuant to a settlement as described in this section shall be conducted in a closed session or sessions. Except as provided in subdivision (c), any settlement entered into pursuant to this section shall constitute confidential tax information for purposes of Article 2 (commencing with Section 19542) of Chapter 7.

(2) A settlement approved by the Franchise Tax Board, itself, shall be final and conclusive, to the same extent as an agreement under Section 19441 approved by the Franchise Tax Board, itself.

(h) This section shall apply only to civil tax matters in dispute existing on or after the effective date of the act adding this subdivision.

(i) The Legislature finds that it is essential for fiscal purposes that the settlement program authorized by this section be expeditiously implemented. Accordingly, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall
not apply to any determination, rule, notice, or guideline established or issued by the Franchise Tax Board in implementing and administering the settlement program authorized by this section.

(j) The amendments made to this section by the act adding this subdivision shall apply to any settlements approved on or after January 1, 2003.

CHAPTER  259

An act to amend Section 33200 of the Public Resources Code, relating to the Santa Monica Mountains Conservancy.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 33200 of the Public Resources Code is amended to read:

33200. (a) The Santa Monica Mountains Conservancy is hereby established within the Resources Agency. The conservancy is composed of nine voting members and three ex officio members. The voting members are as follows:

(1) The Superintendent of the Santa Monica Mountains National Recreation Area, or his or her designee.

(2) A member representing the City of Los Angeles, appointed by the mayor with the approval of the city council.

(3) Three public members who shall be residents of either the County of Los Angeles or the County of Ventura, one of whom shall be appointed by the Governor, one of whom shall be appointed by the Senate Committee on Rules, and one of whom shall be appointed by the Speaker of the Assembly. At least one of the public members shall reside within the San Fernando Valley statistical area, as defined in Section 11093 of the Government Code. The seat of a public member shall be deemed vacant if the member changes his or her residence to a county other than Los Angeles or Ventura County.

(4) An elected official who is a representative nominated by the city councils of those cities which have at least 75 percent of their areas within the zone who shall be appointed by the Board of Supervisors of the County of Los Angeles or a member appointed by the Board of Supervisors of the County of Los Angeles, or that member’s designee.

(5) An elected official who is either a member of the City Council of the City of Thousand Oaks or a member of the Board of Supervisors of
the County of Ventura and who shall be appointed by the Board of Supervisors of the County of Ventura, or the elected official’s designee.  

(6) The Secretary of the Resources Agency or an employee of the agency designated by the secretary.  

(7) The Superintendent of the Angeles District of the Department of Parks and Recreation, or his or her designee.  

(b) (1) (A) The California Coastal Commission and the State Coastal Conservancy shall each appoint an ex officio member who shall be either a member or employee of their respective agency. The ex officio member appointed by the California Coastal Commission and the State Coastal Conservancy shall be nonvoting members, except that the ex officio member appointed by the State Coastal Conservancy may vote on any matter relating to a project undertaken within the coastal zone portion of the zone.  

(B) On the 10th working day after certification pursuant to Chapter 6 (commencing with Section 30500) of Division 20 of any local coastal program, or any portion thereof, for any portion of the zone, the ex officio member appointed by the California Coastal Commission may vote on any matter relating to a project undertaken within the coastal zone portion of the zone and the ex officio member appointed by the State Coastal Conservancy may not vote on the matter.  

(2) The Supervisor of the Angeles National Forest shall also serve as an ex officio, nonvoting member of the conservancy.  

(c) The chairperson and vice chairperson of the conservancy shall be selected by the voting members of the conservancy for a one-year term. A majority of the total authorized and appointed voting membership of the conservancy constitutes a quorum for the transaction of any business under this division.  

(d) (1) The following members of the conservancy shall be compensated for attendance at regular meetings of the conservancy at the rate of one hundred dollars ($100) per day:  

(A) The public members.  

(B) The member appointed by the Board of Supervisors of the County of Los Angeles or that member’s designee, unless the member or designee is also a member of the board of supervisors, in which case no compensation shall be paid.  

(C) The member appointed by the Board of Supervisors of the County of Ventura or that member’s designee, unless the member or designee is also a member of a board of supervisors, in which case no compensation shall be paid.  

(D) The members appointed by the State Coastal Conservancy and the California Coastal Commission if these members are not employees of their respective agency or are not full-time compensated elected officials.
(E) The appointed member representing the City of Los Angeles.

(2) All members of the conservancy shall be reimbursed for actual and necessary expenses, including travel expenses, incurred in the performance of their duties.

CHAPTER 260

An act to amend Sections 7666, 7669, 7807, 7850, 7851, and 7901 of, and to add Chapter 8 (commencing with Section 9210) to Part 2 of Division 13 of, and to add Section 7908.5 to, the Family Code, relating to family law proceedings.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 7666 of the Family Code is amended to read:

7666. (a) Except as provided in subdivision (b), notice of the proceeding shall be given to every person identified as the natural father or a possible natural father in accordance with the Code of Civil Procedure for the service of process in a civil action in this state at least 10 days before the date stated in the notice of the proceeding, except that publication or posting of the notice of the proceeding is not required. Proof of giving the notice shall be filed with the court before the petition is heard.

(b) If a person identified as the natural father or possible natural father cannot be located or his whereabouts are unknown or cannot be ascertained, the court may issue an order dispensing with notice to that person.

SEC. 2. Section 7669 of the Family Code is amended to read:

7669. An order requiring or dispensing with a father’s consent for the adoption of a child is conclusive and binding upon the father. Nothing in this section limits the right to appeal from the order and judgment.

SEC. 3. Section 7807 of the Family Code is amended to read:

7807. (a) Sections 3020, 3022, 3040 to 3043, inclusive, and 3409 do not apply in a proceeding under this part.

(b) All proceedings affecting a child under Divisions 8 (commencing with Section 3000) to 11 (commencing with Section 6500), inclusive, and Parts 1 (commencing with Section 7500) to 3 (commencing with Section 7600), inclusive, of this division shall be stayed pending final
determination of proceedings to declare the minor free from parental custody and control under this part.

(c) Nothing in this section may limit the jurisdiction of the court pursuant to Part 3 (commencing with Section 6240) and Part 4 (commencing with Section 6300) of Division 10 with respect to domestic violence orders.

SEC. 4. Section 7850 of the Family Code is amended to read:

7850. Upon the filing of a petition under Section 7841, the clerk of the court shall, in accordance with the direction of the court, immediately notify the juvenile probation officer, qualified court investigator, licensed clinical social worker, licensed marriage and family therapist, or the county department designated by the board of supervisors to administer the public social services program, who shall immediately investigate the circumstances of the child and the circumstances which are alleged to bring the child within any of the provisions of Chapter 2 (commencing with Section 7820).

SEC. 5. Section 7851 of the Family Code is amended to read:

7851. (a) The juvenile probation officer, qualified court investigator, licensed clinical social worker, licensed marriage and family therapist, or the county department shall render to the court a written report of the investigation with a recommendation of the proper disposition to be made in the proceeding in the best interest of the child.

(b) The report shall include all of the following:

(1) A statement that the person making the report explained to the child the nature of the proceeding to end parental custody and control.

(2) A statement of the child’s feelings and thoughts concerning the pending proceeding.

(3) A statement of the child’s attitude towards the child’s parent or parents and particularly whether or not the child would prefer living with his or her parent or parents.

(4) A statement that the child was informed of the child’s right to attend the hearing on the petition and the child’s feelings concerning attending the hearing.

(c) If the age, or the physical, emotional, or other condition of the child precludes the child’s meaningful response to the explanations, inquiries, and information required by subdivision (b), a description of the condition shall satisfy the requirement of that subdivision.

(d) The court shall receive the report in evidence and shall read and consider its contents in rendering the court’s judgment.

SEC. 6. Section 7901 of the Family Code is amended to read:

7901. The provisions of the interstate compact referred to in Section 7900 are as follows:
INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

Article 1. Purpose and Policy

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis on which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

Article 2. Definitions

As used in this compact:

(a) “Child” means a person who, by reason of minority, is legally subject to parental, guardianship, or similar control.

(b) “Sending agency” means a party state, or officer or employee thereof; subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency, or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) “Receiving state” means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) “Placement” means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution primarily educational in character, and any hospital or other medical facility.
Article 3. Conditions for Placement

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Before sending, bringing, or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

(1) The name, date, and place of birth of the child.
(2) The identity and address or addresses of the parents or legal guardian.
(3) The name and address of the person, agency, or institution to or with which the sending agency proposes to send, bring, or place the child.
(4) A full statement of the reasons for the proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency’s state, and shall be entitled to receive therefrom, supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

Article 4. Penalty for Illegal Placement

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. A violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any punishment or penalty, any
violation shall constitute full and sufficient grounds for the suspension
or revocation of any license, permit, or other legal authorization held by
the sending agency which empowers or allows it to place, or care for
children.

Article 5. Continuing Jurisdiction

(a) The sending agency shall retain jurisdiction over the child
sufficient to determine all matters in relation to the custody, supervision,
care, treatment, and disposition of the child which it would have had if
the child had remained in the sending agency’s state, until the child is
adopted, reaches majority, becomes self-supporting, or is discharged
with the concurrence of the appropriate authority in the receiving state.
That jurisdiction shall also include the power to effect or cause the return
of the child or its transfer to another location and custody pursuant to law.
The sending agency shall continue to have financial responsibility for
support and maintenance of the child during the period of the placement.
Nothing contained herein shall defeat a claim of jurisdiction by a
receiving state sufficient to deal with an act of delinquency or crime
committed therein.

(b) When the sending agency is a public agency, it may enter into an
agreement with an authorized public or private agency in the receiving
state providing for the performance of one or more services in respect of
that case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private
charitable agency authorized to place children in the receiving state from
performing services or acting as agent in that state for a private charitable
agency of the sending state; nor to prevent the agency in the receiving
state from discharging financial responsibility for the support and
maintenance of a child who has been placed on behalf of the sending
agency without relieving the responsibility set forth in paragraph (a) of
this article.

Article 6. Institutional Care of Delinquent Children

A child adjudicated delinquent may be placed in an institution in
another party jurisdiction pursuant to this compact but no such
placement shall be made unless the child is given a court hearing on
notice to the parent or guardian with opportunity to be heard, before
being sent to the other party jurisdiction for institutional care and the
court finds that both of the following exist:

(a) Equivalent facilities for the child are not available in the sending
agency’s jurisdiction.
(b) Institutional care in the other jurisdiction is in the best interest of
the child and will not produce undue hardship.

Article 7. Compact Administrator

The executive head of each jurisdiction party to this compact shall
designate an officer who shall be general coordinator of activities under
this compact in his or her jurisdiction and who, acting jointly with like
officers of other party jurisdictions, shall have power to promulgate rules
and regulations to carry out more effectively the terms and provisions of
this compact.

Article 8. Limitations

This compact shall not apply to:
(a) The sending or bringing of a child into a receiving state by his or
her parent, stepparent, grandparent, adult brother or sister, adult uncle or
aunt, or his or her guardian and leaving the child with any such relative
or nonagency guardian in the receiving state.
(b) Any placement, sending or bringing of a child into a receiving
state pursuant to any other interstate compact to which both the state
from which the child is sent or brought and the receiving state are party,
or to any other agreement between said states which has the force of law.

Article 9. Enactment and Withdrawal

This compact shall be open to joinder by any state, territory, or
possession of the United States, the District of Columbia, the
Commonwealth of Puerto Rico, and, with the consent of Congress, the
government of Canada or any province thereof. It shall become effective
with respect to any of these jurisdictions when that jurisdiction has
enacted the same into law. Withdrawal from this compact shall be by the
enactment of a statute repealing the same, but shall not take effect until
two years after the effective date of the statute and until written notice
of the withdrawal has been given by the withdrawing state to the
Governor of each other party jurisdiction. Withdrawal of a party state
shall not affect the rights, duties, and obligations under this compact of
any sending agency therein with respect to a placement made before the
effective date of withdrawal.

Article 10. Construction and Severability

The provisions of this compact shall be liberally construed to
effectuate the purposes thereof. The provisions of this compact shall be
severable and if any phrase, clause, sentence, or provision of this
compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

SEC. 7. Section 7908.5 is added to the Family Code, to read:

7908.5. For the purposes of an interstate adoption placement, the term “jurisdiction” as used in Article 5 of the Interstate Compact on the Placement of Children means “jurisdiction over or legal responsibility for the child.” It is the intent of the Legislature that this section make a technical clarification to the Interstate Compact on the Placement of Children and not a substantive change.

SEC. 8. Chapter 8 (commencing with Section 9210) is added to Part 2 of Division 13 of the Family Code, to read:

CHAPTER 8. ADOPTION PROCEEDINGS: CONFLICT OF LAWS

9210. (a) Except as otherwise provided in subdivisions (b) and (c), a court of this state has jurisdiction over a proceeding for the adoption of a minor commenced under this part if any of the following applies:

(1) Immediately before commencement of the proceeding, the minor lived in this state with a parent, a guardian, a prospective adoptive parent, or another person acting as parent, for at least six consecutive months, excluding periods of temporary absence, or, in the case of a minor under six months of age, lived in this state with any of those individuals from soon after birth and there is available in this state substantial evidence concerning the minor’s present or future care.

(2) Immediately before commencement of the proceeding, the prospective adoptive parent lived in this state for at least six consecutive months, excluding periods of temporary absence, and there is available in this state substantial evidence concerning the minor’s present or future care.

(3) The agency that placed the minor for adoption is located in this state and both of the following apply:

(A) The minor and the minor’s parents, or the minor and the prospective adoptive parent, have a significant connection with this state.

(B) There is available in this state substantial evidence concerning the minor’s present or future care.
(4) The minor and the prospective adoptive parent are physically present in this state and the minor has been abandoned or it is necessary in an emergency to protect the minor because the minor has been subjected to or threatened with mistreatment or abuse or is otherwise neglected.

(5) It appears that no other state would have jurisdiction under requirements substantially in accordance with paragraphs (1) to (4), inclusive, or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to hear a petition for adoption of the minor, and there is available in this state substantial evidence concerning the minor’s present or future care.

(b) A court of this state may not exercise jurisdiction over a proceeding for adoption of a minor if at the time the petition for adoption is filed a proceeding concerning the custody or adoption of the minor is pending in a court of another state exercising jurisdiction substantially in conformity with this part, unless the proceeding is stayed by the court of the other state because this state is a more appropriate forum or for another reason.

(c) If a court of another state has issued a decree or order concerning the custody of a minor who may be the subject of a proceeding for adoption in this state, a court of this state may not exercise jurisdiction over a proceeding for adoption of the minor, unless both of the following apply:

(1) The requirements for modifying an order of a court of another state under this part are met, the court of another state does not have jurisdiction over a proceeding for adoption substantially in conformity with paragraphs (1) to (4), inclusive, of subdivision (a), or the court of another state has declined to assume jurisdiction over proceeding for adoption.

(2) The court of this state has jurisdiction under this section over the proceeding for adoption.

9211. A petition for adoption of a minor may be filed in the court in the county in which any of the following applies:

(a) A petitioner lives.
(b) The minor lives.
(c) An office of an agency that placed the minor is located.

9212. (a) Sections 9210 and 9211 shall apply to interstate adoptions if the prospective adoptive parents reside outside of the state.

(b) This section shall become operative only if AB 746 of the 2001–02 Regular Session is enacted. If AB 746 is not enacted, the application of Sections 9120 and 9211 is not intended to expand
jurisdiction to apply to interstate adoptions if the prospective adoptive parents reside outside of the state.

CHAPTER 261

An act to amend Section 6512 of the Health and Safety Code, and to amend Section 10633 of the Water Code, relating to water.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]

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 substantial water shortage statewide.
(b) The state’s population is growing by approximately 750,000 people a year, and is expected to approach 50 million by 2020.
(c) This boom in population will nearly double the demand for water supply in urban areas by 2020, compounding the shortage problem.
(d) The state needs to take action that will help alleviate these problems by expanding options for securing water supply.
(e) The state has a tremendous capacity to use reclaimed water for a range of uses.
(f) The Legislature has established goals for water recycling in the state, namely to reclaim and reuse one million acre-feet annually by 2010.
(g) It is the policy of the State of California to do what it can to encourage and facilitate the expanded use of recycled water.

SEC. 2. Section 6512 of the Health and Safety Code is amended to read:

6512. (a) A district may acquire, plan, construct, reconstruct, alter, enlarge, lay, renew, replace, maintain, and operate garbage dumpsites and garbage collection and disposal systems, sewers, drains, septic tanks, and sewerage collection, outfall, treatment works and other sanitary disposal systems, and storm water drains and storm water collection, outfall and disposal systems, and water recycling and distribution systems, as the board deems necessary and proper, and in the performance of these functions, either in or out of the district, it may join through joint powers agreements pursuant to the provisions of Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, or through other means with any county or municipality or any other district or governmental agency.
(b) Before any garbage dump is established, the location shall first be approved by the county health officer, and, in addition, if the location is within two miles of any city, the consent of the governing body of the city shall first be secured.

(c) (1) If the district includes any part of a city, water district, or other local agency that provides water service to any territory in the district, the district shall not supply water service to the territory unless the district first obtains the consent of the city, water district, or other local agency. The consent shall not be revoked, if the revocation will result in a decrease of the revenues available to pay the outstanding bonds of the district.

(2) Paragraph (1) does not apply to the provision of recycled water by a district.

(3) (A) Subject to subparagraph (B), a district may not supply water service using recycled water to the territory of any part of a city, water district, or other local public entity providing water service, or commence construction of facilities for that service, prior to offering to consult with that city, water district, or other local public entity, and providing notification of availability for consultation. The obligation to consult terminates if that local public entity providing water service fails to make itself available for consultation within 60 days of written notification to that local public entity.

(B) The consultation and notification requirements described in subparagraph (A) do not apply to a district if the district, prior to supplying water or commencing construction as described in subparagraph (A), provides notification to the local public entity pursuant to Section 65604 of the Government Code or submits a written request to the local public entity pursuant to subdivision (b) of Section 13580 of the Water Code.

(d) The Department of Water Resources may assist sanitary districts in applying for, and in obtaining approval of, federal and state funding and permits for cost-effective water recycling projects and shall confer and cooperate with the legislative body of the district during the application and approval process.

SEC. 3. Section 10633 of the Water Code is amended to read:

10633. The plan shall provide, to the extent available, information on recycled water and its potential for use as a water source in the service area of the urban water supplier. The preparation of the plan shall be coordinated with local water, wastewater, groundwater, and planning agencies that operate within the supplier’s service area, and shall include all of the following:

(a) A description of the wastewater collection and treatment systems in the supplier’s service area, including a quantification of the amount
of wastewater collected and treated and the methods of wastewater disposal.

(b) A description of the quantity of treated wastewater that meets recycled water standards, is being discharged, and is otherwise available for use in a recycled water project.

(c) A description of the recycled water currently being used in the supplier’s service area, including, but not limited to, the type, place, and quantity of use.

(d) A description and quantification of the potential uses of recycled water, including, but not limited to, agricultural irrigation, landscape irrigation, wildlife habitat enhancement, wetlands, industrial reuse, groundwater recharge, and other appropriate uses, and a determination with regard to the technical and economic feasibility of serving those uses.

(e) The projected use of recycled water within the supplier’s service area at the end of 5, 10, 15, and 20 years, and a description of the actual use of recycled water in comparison to uses previously projected pursuant to this subdivision.

(f) A description of actions, including financial incentives, which may be taken to encourage the use of recycled water, and the projected results of these actions in terms of acre-feet of recycled water used per year.

(g) A plan for optimizing the use of recycled water in the supplier’s service area, including actions to facilitate the installation of dual distribution systems, to promote recirculating uses, to facilitate the increased use of treated wastewater that meets recycled water standards, and to overcome any obstacles to achieving that increased use.

SEC. 4. It is the intent of the Legislature to encourage the use of recycled water for nonpotable uses as a cost-effective, reliable method of helping to meet California’s water supply needs. This act does not alter any rights, remedies, or obligations that may exist pursuant to Article 1.5 (commencing with Section 1210) of Chapter 1 of Part 2 of Division 2 of the Water Code or Chapter 8.5 (commencing with Section 1501) of Part 1 of Division 1 of the Public Utilities Code.

CHAPTER 262

An act to amend Section 14087.57 of the Welfare and Institutions Code, relating to conflict of interest, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]
The people of the State of California do enact as follows:

SECTION 1. Section 14087.57 of the Welfare and Institutions Code is amended to read:

14087.57. Notwithstanding any provision of law, a member of a commission authorized by Section 14087.51 or 14087.54, or a member of any advisory committee to the commission, shall not be deemed to be interested in a contract entered into by the commission within the meaning of Article 4 (commencing with Section 1090) of Chapter 1 of Division 4 of Title 1 of the Government Code if all of the following apply:

(a) The member was appointed to represent the interests of physicians, health care practitioners, hospitals, pharmacies, or other health care organizations.

(b) The contract authorizes the member or the organization the member represents to provide services under the commission’s program.

(c) (1) The contract contains substantially the same terms and conditions as contracts entered into with other individuals or organizations that the member was appointed to represent.

(2) If the contract does not contain substantially the same terms and conditions, the member shall recuse himself or herself from making, participating in making, or in any way attempting to use his or her official position to influence the making of, a decision on the contract.

(d) The member does not influence or attempt to influence the commission or another member of the commission to enter into the contract in which the member is interested.

(e) The member discloses the interest to the commission and abstains from voting on the contract.

(f) The commission notes the member’s disclosure and abstention in its official records and authorizes the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote of the interested member.

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 permit persons in various business and professions to be members of certain special health commissions and thereby facilitate the work of those commissions, including managing the delivery of Medi-Cal services, at the earliest possible time, it is necessary that this act take effect immediately.
An act to amend Section 4061 of the Business and Professions Code, relating to healing arts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 4061 of the Business and Professions Code is amended to read:

4061. (a) No manufacturer’s sales representative shall distribute any dangerous drug or dangerous device as a complimentary sample without the written request of a physician, dentist, podiatrist, or veterinarian. However, a certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, a nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, or a physician assistant who functions pursuant to a protocol described in Section 3502.1, may sign for the request and receipt of complimentary samples of a dangerous drug or dangerous device that has been identified in the standardized procedure, protocol, or practice agreement. Standardized procedures, protocols, and practice agreements shall include specific approval by a physician. A review process, consistent with the requirements of Section 2725 or 3502.1, of the complimentary samples requested and received by a nurse practitioner, certified nurse-midwife, or physician assistant shall be defined within the standardized procedure, protocol, or practice agreement.

(b) Each written request shall contain the names and addresses of the supplier and the requester, the name and quantity of the specific dangerous drug desired, the name of the certified nurse-midwife, nurse practitioner, or physician assistant, if applicable, receiving the samples pursuant to this section, the date of receipt, and the name and quantity of the dangerous drugs or dangerous devices provided. These records shall be preserved by the supplier with the records required by Section 4059.

(c) Nothing in this section is intended to expand the scope of practice of a certified nurse-midwife, nurse practitioner, or physician assistant.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:
In order to ensure that appropriate health care practitioners may sign for the request and receipt of pharmaceutical samples that provide immediate and necessary medication to patients who have difficulty filling their prescriptions for many reasons, it is necessary that this act take effect immediately.

CHAPTER 264

An act to add Section 87302.6 to the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 87302.6 is added to the Government Code, to read:

87302.6. Notwithstanding Section 87302, a member of a board or commission of a newly created agency shall file a statement at the same time and in the same manner as those individuals required to file pursuant to Section 87200. A member shall file his or her statement pursuant to Section 87302 once the agency adopts an approved conflict-of-interest code.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 3. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 265

An act to amend Sections 6380 and 6385 of the Family Code, and to amend Section 1203.097 of the Penal Code, relating to domestic violence.
The people of the State of California do enact as follows:

SECTION 1. Section 6380 of the Family Code is amended to read:

6380. (a) Each county, with the approval of the Department of Justice, shall, by July 1, 1996, develop a procedure, using existing systems, for the electronic transmission of data, as described in subdivision (b), to the Department of Justice. The data shall be electronically transmitted through the California Law Enforcement Telecommunications System (CLETS) of the Department of Justice by law enforcement personnel, or with the approval of the Department of Justice, court personnel, or another appropriate agency capable of maintaining and preserving the integrity of both the CLETS and the Domestic Violence Restraining Order System, as described in subdivision (e). Data entry is required to be entered only once under the requirements of this section, unless the order is served at a later time. A portion of all fees payable to the Department of Justice under subdivision (a) of Section 1203.097 of the Penal Code for the entry of the information required under this section, based upon the proportion of the costs incurred by the local agency and those incurred by the Department of Justice, shall be transferred to the local agency actually providing the data. All data with respect to criminal court protective orders issued, modified, extended, or terminated under subdivision (g) of Section 136.2 of the Penal Code shall be transmitted by the court or its designee within one business day to law enforcement personnel by either one of the following methods:

(1) Transmitting a physical copy of the order to a local law enforcement agency authorized by the Department of Justice to enter orders into CLETS.

(2) With the approval of the Department of Justice, entering the order into CLETS directly.

(b) Upon the issuance of a protective order to which this division applies pursuant to Section 6221, or the issuance of a temporary restraining order or injunction relating to harassment or domestic violence pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, or the issuance of a criminal court protective order under subdivision (g) of Section 136.2 of the Penal Code, or the issuance of a juvenile court restraining order related to domestic violence pursuant to Section 213.5, 304, or 362.4 of the Welfare and Institutions Code, or the issuance of a protective order pursuant to Section 15657.03 of the Welfare and Institutions Code, or upon registration with the court clerk of a domestic violence protective or restraining order issued by the
tribunal of another state, as defined in Section 6401, and including any of the foregoing orders issued in connection with an order for modification of a custody or visitation order issued pursuant to a dissolution, legal separation, nullity, or paternity proceeding the Department of Justice shall be immediately notified of the contents of the order and the following information:

(1) The name, race, date of birth, and other personal descriptive information of the respondent as required by a form prescribed by the Department of Justice.
(2) The names of the protected persons.
(3) The date of issuance of the order.
(4) The duration or expiration date of the order.
(5) The terms and conditions of the protective order, including stay-away, no-contact, residency exclusion, custody, and visitation provisions of the order.
(6) The department or division number and the address of the court.
(7) Whether or not the order was served upon the respondent.
(8) The terms and conditions of any restrictions on the ownership or possession of firearms.

All available information shall be included; however, the inability to provide all categories of information shall not delay the entry of the information available.

(c) The information conveyed to the Department of Justice shall also indicate whether the respondent was present in court to be informed of the contents of the court order. The respondent’s presence in court shall provide proof of service of notice of the terms of the protective order. The respondent’s failure to appear shall also be included in the information provided to the Department of Justice.

(d) (1) Within one business day of service, any law enforcement officer who served a protective order shall submit the proof of service directly into the Department of Justice Domestic Violence Restraining Order System, including his or her name and law enforcement agency, and shall transmit the original proof of service form to the issuing court.

(2) Within one business day of receipt of proof of service by a person other than a law enforcement officer, the clerk of the court shall submit the proof of service of a protective order directly into the Department of Justice Domestic Violence Restraining Order System, including the name of the person who served the order. If the court is unable to provide this notification to the Department of Justice by electronic transmission, the court shall, within one business day of receipt, transmit a copy of the proof of service to a local law enforcement agency. The local law enforcement agency shall submit the proof of service directly into the Department of Justice Domestic Violence Restraining Order System within one business day of receipt from the court.
(e) The Department of Justice shall maintain a Domestic Violence Restraining Order System and shall make available to court clerks and law enforcement personnel, through computer access, all information regarding the protective and restraining orders and injunctions described in subdivision (b), whether or not served upon the respondent.

(f) If a court issues a modification, extension, or termination of a protective order, it shall be on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice, and the transmitting agency for the county shall immediately notify the Department of Justice, by electronic transmission, of the terms of the modification, extension, or termination.

(g) The Judicial Council shall assist local courts charged with the responsibility for issuing protective orders by developing informational packets describing the general procedures for obtaining a domestic violence restraining order and indicating the appropriate Judicial Council forms. The informational packets shall include a design, that local courts shall complete, that describes local court procedures and maps to enable applicants to locate filing windows and appropriate courts, and shall also include information on how to return proofs of service, including mailing addresses and fax numbers. The court clerk shall provide a fee waiver form to all applicants for domestic violence protective orders. The court clerk shall provide all Judicial Council forms required by this chapter to applicants free of charge. The informational packet shall also contain a statement that the protective order is enforceable in any state, as defined in Section 6401, and general information about agencies in other jurisdictions that may be contacted regarding enforcement of an order issued by a court of this state.

(h) For the purposes of this part, “electronic transmission” shall include computer access through the California Law Enforcement Telecommunications System (CLETS).

(i) Only protective and restraining orders issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice shall be transmitted to the Department of Justice. However, this provision shall not apply to a valid protective or restraining order related to domestic or family violence issued by a tribunal of another state, as defined in Section 6401. Those orders shall, upon request, be registered pursuant to Section 6404.

SEC. 2. Section 6385 of the Family Code is amended to read:

6385. (a) Proof of service of the protective order is not required for the purposes of Section 6380 if the order indicates on its face that both parties were personally present at the hearing at which the order was issued and that, for the purpose of Section 6384, no proof of service is required, or if the order was served by a law enforcement officer pursuant to Section 6383.
(b) The failure of the petitioner to provide the Department of Justice with the personal descriptive information regarding the person restrained does not invalidate the protective order.

(c) There is no civil liability on the part of, and no cause of action arises against, an employee of a local law enforcement agency, a court, or the Department of Justice, acting within the scope of employment, if a person described in subdivision (g) of Section 12021 of the Penal Code unlawfully purchases or receives or attempts to purchase or receive a firearm and a person is injured by that firearm or a person who is otherwise entitled to receive a firearm is denied a firearm and either wrongful action is due to a failure of a court to provide the notification provided for in this chapter.

SEC. 3. Section 1203.097 of the Penal Code is amended to read:

1203.097. (a) If a person is granted probation for a crime in which the victim is a person defined in Section 6211 of the Family Code, the terms of probation shall include all of the following:

(1) A minimum period of probation of 36 months, which may include a period of summary probation as appropriate.

(2) A criminal court protective order protecting the victim from further acts of violence, threats, stalking, sexual abuse, and harassment, and, if appropriate, containing residence exclusion or stay-away conditions.

(3) Notice to the victim of the disposition of the case.

(4) Booking the defendant within one week of sentencing if the defendant has not already been booked.

(5) A minimum payment by the defendant of two hundred dollars ($200) to be disbursed as specified in this paragraph. If, after a hearing in court on the record, the court finds that the defendant does not have the ability to pay, the court may reduce or waive this fee.

One-third of the moneys deposited with the county treasurer pursuant to this section shall be retained by counties and deposited in the domestic violence programs special fund created pursuant to Section 18305 of the Welfare and Institutions Code, to be expended for the purposes of Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code. The remainder shall be transferred, once a month, to the Controller for deposit in equal amounts in the Domestic Violence Restraining Order Reimbursement Fund and in the Domestic Violence Training and Education Fund, which are hereby created, in an amount equal to two-thirds of funds collected during the preceding month. Moneys deposited into these funds pursuant to this section shall be available upon appropriation by the Legislature and shall be distributed each fiscal year as follows:

(A) Funds from the Domestic Violence Restraining Order Reimbursement Fund shall be distributed to local law enforcement or
other criminal justice agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (b) of Section 6380 of the Family Code, based on the annual notification from the Department of Justice of the number of restraining orders issued and registered in the state domestic violence restraining order registry maintained by the Department of Justice, for the development and maintenance of the domestic violence restraining order databank system.

(B) Funds from the Domestic Violence Training and Education Fund shall support a statewide training and education program to increase public awareness of domestic violence and to improve the scope and quality of services provided to the victims of domestic violence. Grants to support this program shall be awarded on a competitive basis and be administered by the State Department of Health Services, in consultation with the statewide domestic violence coalition, which is eligible to receive funding under this section.

(6) Successful completion of a batterer’s program, as defined in subdivision (c), or if none is available, another appropriate counseling program designated by the court, for a period not less than one year with periodic progress reports by the program to the court every three months or less and weekly sessions of a minimum of two hours class time duration. The defendant shall attend consecutive weekly sessions, unless granted an excused absence for good cause by the program for no more than three individual sessions during the entire program, and shall complete the program within 18 months, unless, after a hearing, the court finds good cause to modify the requirements of consecutive attendance or completion within 18 months.

(7) (A) (i) The court shall order the defendant to comply with all probation requirements, including the requirements to attend counseling, keep all program appointments, and pay program fees based upon the ability to pay.

(ii) The terms of probation for offenders shall not be lifted until all reasonable fees due to the counseling program have been paid in full, but in no case shall probation be extended beyond the term provided in subdivision (a) of Section 1203.1. If the court finds that the defendant does not have the ability to pay the fees based on the defendant’s changed circumstances, the court may reduce or waive the fees.

(B) Upon request by the batterer’s program, the court shall provide the defendant’s arrest report, prior incidents of violence, and treatment history to the program.

(8) The court also shall order the defendant to perform a specified amount of appropriate community service, as designated by the court. The defendant shall present the court with proof of completion of community service and the court shall determine if the community
service has been satisfactorily completed. If sufficient staff and resources are available, the community service shall be performed under the jurisdiction of the local agency overseeing a community service program.

(9) If the program finds that the defendant is unsuitable, the program shall immediately contact the probation department or the court. The probation department or court shall either recalendar the case for hearing or refer the defendant to an appropriate alternative batterer’s program.

(10) (A) Upon recommendation of the program, a court shall require a defendant to participate in additional sessions throughout the probationary period, unless it finds that it is not in the interests of justice to do so, states its reasons on the record, and enters them into the minutes. In deciding whether the defendant would benefit from more sessions, the court shall consider whether any of the following conditions exist:

(i) The defendant has been violence free for a minimum of six months.

(ii) The defendant has cooperated and participated in the batterer’s program.

(iii) The defendant demonstrates an understanding of and practices positive conflict resolution skills.

(iv) The defendant blames, degrades, or has committed acts that dehumanize the victim or puts at risk the victim’s safety, including, but not limited to, molesting, stalking, striking, attacking, threatening, sexually assaulting, or battering the victim.

(v) The defendant demonstrates an understanding that the use of coercion or violent behavior to maintain dominance is unacceptable in an intimate relationship.

(vi) The defendant has made threats to harm anyone in any manner.

(vii) The defendant has complied with applicable requirements under paragraph (6) of subdivision (c) or subparagraph (C) to receive alcohol counseling, drug counseling, or both.

(viii) The defendant demonstrates acceptance of responsibility for the abusive behavior perpetrated against the victim.

(B) The program shall immediately report any violation of the terms of the protective order, including any new acts of violence or failure to comply with the program requirements, to the court, the prosecutor, and, if formal probation has been ordered, to the probation department. The probationer shall file proof of enrollment in a batterer’s program with the court within 30 days of conviction.

(C) Concurrent with other requirements under this section, in addition to, and not in lieu of, the batterer’s program, and unless prohibited by the referring court, the probation department or the court may make provisions for a defendant to use his or her resources to enroll
in a chemical dependency program or to enter voluntarily a licensed chemical dependency recovery hospital or residential treatment program that has a valid license issued by the state to provide alcohol or drug services to receive program participation credit, as determined by the court. The probation department shall document evidence of this hospital or residential treatment participation in the defendant’s program file.

(11) The conditions of probation may include, in lieu of a fine, but not in lieu of the fund payment required under paragraph (5), one or more of the following requirements:

(A) That the defendant make payments to a battered women’s shelter, up to a maximum of five thousand dollars ($5,000).

(B) That the defendant reimburse the victim for reasonable expenses that the court finds are the direct result of the defendant’s offense.

For any order to pay a fine, to make payments to a battered women’s shelter, or to pay restitution as a condition of probation under this subdivision, the court shall make a determination of the defendant’s ability to pay. Determination of a defendant’s ability to pay may include his or her future earning capacity. A defendant shall bear the burden of demonstrating lack of his or her ability to pay. Express findings by the court as to the factors bearing on the amount of the fine shall not be required. In no event shall any order to make payments to a battered women’s shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. When the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property shall not be used to discharge the liability of the offending spouse for restitution to the injured spouse, as required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse, until all separate property of the offending spouse is exhausted.

(12) If it appears to the prosecuting attorney, the court, or the probation department that the defendant is performing unsatisfactorily in the assigned program, is not benefiting from counseling, or has engaged in criminal conduct, upon request of the probation officer, the prosecuting attorney, or on its own motion, the court, as a priority calendar item, shall hold a hearing to determine whether further sentencing should proceed. The court may consider factors, including, but not limited to, any violence by the defendant against the former or a new victim while on probation and noncompliance with any other specific condition of probation. If the court finds that the defendant is not performing satisfactorily in the assigned program, is not benefiting from the program, has not complied with a condition of probation, or has
engaged in criminal conduct, the court shall terminate the defendant’s participation in the program and shall proceed with further sentencing.

(b) If a person is granted formal probation for a crime in which the victim is a person defined in Section 6211 of the Family Code, in addition to the terms specified in subdivision (a), all of the following shall apply:

(1) The probation department shall make an investigation and take into consideration the defendant’s age, medical history, employment and service records, educational background, community and family ties, prior incidents of violence, police report, treatment history, if any, demonstrable motivation, and other mitigating factors in determining which batterer’s program would be appropriate for the defendant. This information shall be provided to the batterer’s program if it is requested. The probation department shall also determine which community programs the defendant would benefit from and which of those programs would accept the defendant. The probation department shall report its findings and recommendations to the court.

(2) The court shall advise the defendant that the failure to report to the probation department for the initial investigation, as directed by the court, or the failure to enroll in a specified program, as directed by the court or the probation department, shall result in possible further incarceration. The court, in the interests of justice, may relieve the defendant from the prohibition set forth in this subdivision based upon the defendant’s mistake or excusable neglect. Application for this relief shall be filed within 20 court days of the missed deadline. This time limitation may not be extended. A copy of any application for relief shall be served on the office of the prosecuting attorney.

(3) After the court orders the defendant to a batterer’s program, the probation department shall conduct an initial assessment of the defendant, including, but not limited to, all of the following:

(A) Social, economic, and family background.
(B) Education.
(C) Vocational achievements.
(D) Criminal history.
(E) Medical history.
(F) Substance abuse history.
(G) Consultation with the probation officer.
(H) Verbal consultation with the victim, only if the victim desires to participate.
(I) Assessment of the future probability of the defendant committing murder.

(4) The probation department shall attempt to notify the victim regarding the requirements for the defendant’s participation in the batterer’s program, as well as regarding available victim resources. The
victim also shall be informed that attendance in any program does not guarantee that an abuser will not be violent.

(c) The court or the probation department shall refer defendants only to batterer’s programs that follow standards outlined in paragraph (1), which may include, but are not limited to, lectures, classes, group discussions, and counseling. The probation department shall design and implement an approval and renewal process for batterer’s programs and shall solicit input from criminal justice agencies and domestic violence victim advocacy programs.

(1) The goal of a batterer’s program under this section shall be to stop domestic violence. A batterer’s program shall consist of the following components:

   (A) Strategies to hold the defendant accountable for the violence in a relationship, including, but not limited to, providing the defendant with a written statement that the defendant shall be held accountable for acts or threats of domestic violence.

   (B) A requirement that the defendant participate in ongoing same-gender group sessions.

   (C) An initial intake that provides written definitions to the defendant of physical, emotional, sexual, economic, and verbal abuse, and the techniques for stopping these types of abuse.

   (D) Procedures to inform the victim regarding the requirements for the defendant’s participation in the intervention program as well as regarding available victim resources. The victim also shall be informed that attendance in any program does not guarantee that an abuser will not be violent.

   (E) A requirement that the defendant attend group sessions free of chemical influence.

   (F) Educational programming that examines, at a minimum, gender roles, socialization, the nature of violence, the dynamics of power and control, and the effects of abuse on children and others.

   (G) A requirement that excludes any couple counseling or family counseling, or both.

   (H) Procedures that give the program the right to assess whether or not the defendant would benefit from the program and to refuse to enroll the defendant if it is determined that the defendant would not benefit from the program, so long as the refusal is not because of the defendant’s inability to pay. If possible, the program shall suggest an appropriate alternative program.

   (I) Program staff who, to the extent possible, have specific knowledge regarding, but not limited to, spousal abuse, child abuse, sexual abuse, substance abuse, the dynamics of violence and abuse, the law, and procedures of the legal system.
(J) Program staff who are encouraged to utilize the expertise, training, and assistance of local domestic violence centers.

(K) A requirement that the defendant enter into a written agreement with the program, which shall include an outline of the contents of the program, the attendance requirements, the requirement to attend group sessions free of chemical influence, and a statement that the defendant may be removed from the program if it is determined that the defendant is not benefiting from the program or is disruptive to the program.

(L) A requirement that the defendant sign a confidentiality statement prohibiting disclosure of any information obtained through participating in the program or during group sessions regarding other participants in the program.

(M) Program content that provides cultural and ethnic sensitivity.

(N) A requirement of a written referral from the court or probation department prior to permitting the defendant to enroll in the program. The written referral shall state the number of minimum sessions required by the court.

(O) Procedures for submitting to the probation department all of the following uniform written responses:

(i) Proof of enrollment, to be submitted to the court and the probation department and to include the fee determined to be charged to the defendant, based upon the ability to pay, for each session.

(ii) Periodic progress reports that include attendance, fee payment history, and program compliance.

(iii) Final evaluation that includes the program’s evaluation of the defendant’s progress, using the criteria set forth in paragraph (4) of subdivision (a) and recommendation for either successful or unsuccessful termination or continuation in the program.

(P) A sliding fee schedule based on the defendant’s ability to pay. The batterer’s program shall develop and utilize a sliding fee scale that recognizes both the defendant’s ability to pay and the necessity of programs to meet overhead expenses. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee, if the defendant has the ability to pay the nominal fee. Upon a hearing and a finding by the court that the defendant does not have the financial ability to pay the nominal fee, the court shall waive this fee. The payment of the fee shall be made a condition of probation if the court determines the defendant has the present ability to pay the fee. The fee shall be paid during the term of probation unless the program sets other conditions. The acceptance policies shall be in accordance with the scaled fee system.

(2) The court shall refer persons only to batterer’s programs that have been approved by the probation department pursuant to paragraph (5). The probation department shall do both of the following:
(A) Provide for the issuance of a provisional approval, provided that the applicant is in substantial compliance with applicable laws and regulations and an urgent need for approval exists. A provisional approval shall be considered an authorization to provide services and shall not be considered a vested right.

(B) If the probation department determines that a program is not in compliance with standards set by the department, the department shall provide written notice of the noncompliant areas to the program. The program shall submit a written plan of corrections within 14 days from the date of the written notice on noncompliance. A plan of correction shall include, but not be limited to, a description of each corrective action and timeframe for implementation. The department shall review and approve all or any part of the plan of correction and notify the program of approval or disapproval in writing. If the program fails to submit a plan of correction or fails to implement the approved plan of correction, the department shall consider whether to revoke or suspend approval and, upon revoking or suspending approval, shall have the option to cease referrals of defendants under this section.

(3) No program, regardless of its source of funding, shall be approved unless it meets all of the following standards:
   (A) The establishment of guidelines and criteria for education services, including standards of services that may include lectures, classes, and group discussions.
   (B) Supervision of the defendant for the purpose of evaluating the person’s progress in the program.
   (C) Adequate reporting requirements to ensure that all persons who, after being ordered to attend and complete a program, may be identified for either failure to enroll in, or failure to successfully complete, the program or for the successful completion of the program as ordered. The program shall notify the court and the probation department in writing within the period of time and in the manner specified by the court of any person who fails to complete the program. Notification shall be given if the program determines that the defendant is performing unsatisfactorily or if the defendant is not benefiting from the education, treatment, or counseling.
   (D) No victim shall be compelled to participate in a program or counseling, and no program may condition a defendant’s enrollment on participation by the victim.

(4) In making referrals of indigent defendants to approved batterer’s programs, the probation department shall apportion these referrals evenly among the approved programs.

(5) The probation department shall have the sole authority to approve a batterer’s program for probation. The program shall be required to obtain only one approval but shall renew that approval annually.
(A) The procedure for the approval of a new or existing program shall include all of the following:

(i) The completion of a written application containing necessary and pertinent information describing the applicant program.

(ii) The demonstration by the program that it possesses adequate administrative and operational capability to operate a batterer’s treatment program. The program shall provide documentation to prove that the program has conducted batterer’s programs for at least one year prior to application. This requirement may be waived under subparagraph (A) of paragraph (2) if there is no existing batterer’s program in the city, county, or city and county.

(iii) The onsite review of the program, including monitoring of a session to determine that the program adheres to applicable statutes and regulations.

(iv) The payment of the approval fee.

(B) The probation department shall fix a fee for approval not to exceed two hundred fifty dollars ($250) and for approval renewal not to exceed two hundred fifty dollars ($250) every year in an amount sufficient to cover its cost in administering the approval process under this section. No fee shall be charged for the approval of local governmental entities.

(C) The probation department has the sole authority to approve the issuance, denial, suspension, or revocation of approval and to cease new enrollments or referrals to a batterer’s program under this section. The probation department shall review information relative to a program’s performance or failure to adhere to standards, or both. The probation department may suspend or revoke any approval issued under this subdivision or deny an application to renew an approval or to modify the terms and conditions of approval, based on grounds established by probation, including, but not limited to, either of the following:

(i) Violation of this section by any person holding approval or by a program employee in a program under this section.

(ii) Misrepresentation of any material fact in obtaining the approval.

(6) For defendants who are chronic users or serious abusers of drugs or alcohol, standard components in the program shall include concurrent counseling for substance abuse and violent behavior, and in appropriate cases, detoxification and abstinence from the abused substance.

(7) The program shall conduct an exit conference that assesses the defendant’s progress during his or her participation in the batterer’s program.

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

CHAPTER  266

An act to amend Section 35183.5 of the Education Code, relating to pupil health.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 35183.5 of the Education Code is amended to read:

35183.5. (a) (1) Each schoolsite shall allow for outdoor use during the schoolday, articles of sun-protective clothing, including, but not limited to, hats.

(2) Each schoolsite may set a policy related to the type of sun-protective clothing, including, but not limited to, hats, that pupils will be allowed to use outdoors pursuant to paragraph (1). Specific clothing and hats determined by the school district or schoolsite to be gang-related or inappropriate apparel may be prohibited by the dress code policy.

(b) (1) Each schoolsite shall allow pupils the use of sunscreen during the schoolday without a physician’s note or prescription.

(2) Each schoolsite may set a policy related to the use of sunscreen by pupils during the schoolday.

(3) For purposes of this subdivision, sunscreen is not an over-the-counter medication.

(4) Nothing in this subdivision requires school personnel to assist pupils in applying sunscreen.

SEC. 2. This act shall be known and may be cited as Billy’s Bill for Sun Safety.

CHAPTER  267

An act to amend Sections 53091 and 53096 of the Government Code, relating to land use.
The people of the State of California do enact as follows:

SECTION 1. Section 53091 of the Government Code is amended to read:

53091. (a) Each local agency shall comply with all applicable building ordinances and zoning ordinances of the county or city in which the territory of the local agency is situated.

(b) On projects for which state school building aid is requested by a local agency for construction of school facilities, the county or city planning commission in which the local agency is located shall consider in its review for approval information relating to attendance area enrollment, adequacy of the site upon which the construction is proposed, safety features of the site and proposed construction, and present and future land utilization, and report thereon to the State Allocation Board. If the local agency is situated in more than one city or county or partly in a city and partly in a county, the local agency shall comply with the ordinances of each county or city with respect to the territory of the local agency that is situated in the particular county or city, and the ordinances of a county or city shall not be applied to any portion of the territory of the local agency that is situated outside the boundaries of the county or city. Notwithstanding the preceding provisions of this section, this section does not require a school district or the state when acting under the State Contract Act (Article 1 (commencing with Section 10100) of Chapter 1 of Part 2 of Division 2 of the Public Contract Code) to comply with the building ordinances of a county or city.

(c) Each local agency required to comply with building ordinances and zoning ordinances pursuant to this section and each school district whose school buildings are inspected by a county or city pursuant to Section 53092 shall be subject to the applicable ordinances of a county or city requiring the payment of fees, but the amount of those fees charged to a local agency or school district shall not exceed the amount charged under the ordinance to nongovernmental agencies for the same services or permits.

(d) Building ordinances of a county or city shall not apply to the location or construction of facilities for the production, generation, storage, treatment, or transmission of water, wastewater, or electrical energy by a local agency.

(e) Zoning ordinances of a county or city shall not apply to the location or construction of facilities for the production, generation, storage, treatment, or transmission of water, or for the production or
generation of electrical energy, facilities that are subject to Section 12808.5 of the Public Utilities Code, or electrical substations in an electrical transmission system that receives electricity at less than 100,000 volts. Zoning ordinances of a county or city shall apply to the location or construction of facilities for the storage or transmission of electrical energy by a local agency, if the zoning ordinances make provision for those facilities.

SEC. 2. Section 53096 of the Government Code is amended to read:

53096. (a) Notwithstanding any other provision of this article, the governing board of a local agency, by vote of four-fifths of its members, may render a city or county zoning ordinance inapplicable to a proposed use of property if the local agency at a noticed public hearing determines by resolution that there is no feasible alternative to its proposal. The governing board may not render a zoning ordinance inapplicable to a proposed use of property when the proposed use of the property by the local agency is for facilities not related to storage or transmission of water or electrical energy, including, but not limited to, warehouses, administrative buildings or automotive storage and repair buildings. The governing board of a local agency may make these determinations at the time it approves an environmental impact report on its proposal required by Division 13 (commencing with Section 21000) of the Public Resources Code. Mailed notice of the public hearing shall be provided at least 10 days prior to the hearing, to the owners of all property within 300 feet of the location of the proposed facility and a notice shall be posted in a conspicuous place at the proposed site of the facility. If mailed notice as required above would result in notice to more than 250 persons, as an alternative to mailed notice, notice may be given by placing a display advertisement of at least one-fourth page in a newspaper of general circulation within the area affected by the proposed facility and by posting the notice in a conspicuous place at the proposed site of the facility.

(b) The board shall, within 10 days, notify the city or county, whose zoning ordinance has been rendered inapplicable under subdivision (a), of its action. If the governing board has taken this action, the city or county may commence an action in the superior court of the county whose zoning ordinance is involved or in which is situated the city whose zoning ordinance is involved, seeking a review of the action of the governing board to determine whether it was supported by substantial evidence. The evidence before the court shall include the record of the proceedings before the city, county, and district. The city or county shall cause a copy of the complaint to be served on the board. If the court determines that the action was not supported by substantial evidence, it shall declare it to be of no force and effect, and the zoning
ordinance in question shall be applicable to the use of the property by the local agency.

(c) “Feasible” as used in this section means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

CHAPTER  268

An act to amend Section 19596.1 of the Business and Professions Code, relating to horse racing.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 19596.1 of the Business and Professions Code is amended to read:

19596.1. (a) Notwithstanding any other provision of law, the board may authorize a harness or quarter horse association conducting a race meeting to accept wagers on the results of out-of-state or out-of-country harness or quarter horse races and, with the board’s approval and with the concurrence of the horsemen’s organization contracting with the association, other designated harness or quarter horse races during the period it is conducting the racing meeting, if all of the following conditions are met:

(1) The authorization complies with federal laws, including, but not limited to, Chapter 57 (commencing with Section 3001) of Title 15 of the United States Code.

(2) Wagering is offered only within the racing inclosure and only within 36 hours of the running of the out-of-state feature race.

(3) The association conducts at least seven live races, and imports not more than six races on those days during a racing meeting when live races are being run, except as provided in subdivision (b).

(4) If only one breed of horse specified in this section is being raced on a given day, then the association conducting the live racing may import those races which would otherwise be simulcast by the association which is not racing, provided that the total number of harness or quarter horse races imported in a calendar year does not exceed the number of night races imported in 1998 after 5:30 p.m. After the usual deductions, including the portion for the racing association, the portion
remaining for purses from these races shall be distributed equally for purses for harness horsemen and quarter horse horsemen.

(b) An association that is authorized to import races pursuant to subdivision (a) may, at its sole discretion, import fewer than the maximum number of harness or quarter horse races authorized in paragraph (3) of subdivision (a). For up to two races per night, for each race that is not imported under the maximum authorized by paragraph (3) of subdivision (a) on a particular night of racing, the association may add a race to the number of races allowable under the maximum authorization on another night of racing. However, no more than two races may be added under this subdivision to the number allowable on a single night, and the total number of imported races over a calendar year may not exceed the total number of imported races authorized pursuant to paragraphs (3) and (4) of subdivision (a).

CHAPTER 269

An act to amend Sections 2921.5 and 3795.5 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 24, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 2921.5 of the Revenue and Taxation Code is amended to read:

2921.5. Taxes, penalties, and costs on unsecured property as defined in subdivision (b) of Section 134, shall be transferred from the “secured roll” to the “unsecured roll” of the corresponding year by the county auditor on order of the board of supervisors with the written consent of the county legal advisor pursuant to Article 5 (commencing with Section 5081) of Chapter 4 of Part 9 at the same time the taxes are canceled on the property, and shall be collected in the same manner as other delinquent taxes on the “unsecured roll.” Amounts transferred pursuant to this subdivision shall continue to be subject to delinquent penalties until the amounts are paid, and are collectible from either the person from whom the property was acquired or the public entity that acquired the property.

SEC. 2. Section 3795.5 of the Revenue and Taxation Code is amended to read:

3795.5. In the case of an agreement involving a nonprofit organization, the board of supervisors may establish conditions of sale,
including reporting, to assure the completion of rehabilitation within a reasonable time and maximum benefit to low-income persons. These conditions shall include, but are not limited to, the following:
(a) Requiring compliance with a jurisdiction’s consolidated plan or a community development plan.
(b) Articles of incorporation filed with the Secretary of State, stating that the organization is incorporated for the purposes specified in subdivision (b) of Section 3772.5.

CHAPTER 270

An act to add Article 9 (commencing with Section 99420) to Chapter 4 of Part 11 of Division 10 of the Public Utilities Code, relating to transportation.

[Approved by Governor August 26, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Article 9 (commencing with Section 99420) is added to Chapter 4 of Part 11 of Division 10 of the Public Utilities Code, to read:

Article 9. Joint Development Authority

99420. (a) Notwithstanding any other provision of law, a transit operator may enter into agreements with a public agency, public utility, or person or entity, to be performed within the district, or a transportation corridor or land that shall be acquired by the transit operator, for the joint use or joint development of any property or rights of the transit operator or of the public agency, public utility, or person or entity for the establishment of through routes, joint fares, transfer of passengers, pooling rights, sales or leasing, or for any other purpose necessary for, incidental to, or convenient for, the full exercise of the powers granted to transit operators.

(b) As used in this section, the following terms have the following meanings:
(1) “Joint development” or “jointly develop” means the joint planning, financing, construction, operation, or use of any land, building, facility, or equipment other than vehicles, or interest therein, either of the transit operator or adjacent to, physically related to, or
functionally related to transit facilities of the transit operator. Joint
development may be for public, commercial, residential, or mixed uses.

(2) “Transit operator” means an entity that qualifies as a claimant
under Section 99203 and is eligible to receive allocations under this
chapter, and includes a joint powers authority formed to operate a public
transportation system.

c) The purpose of any joint development project entered into in
accordance with this section shall be to foster transit use, enhance the
transit service, or foster the integration of land use and transportation.

d) For purposes of this section, a transit operator is prohibited from
engaging in agreements unrelated to the transportation purposes and
mission of the transit operator.

e) Any transit oriented joint development project undertaken
pursuant to this section shall comply with the land use and zoning
regulations of the city, county, or city and county in which the project is
located in accordance with the Planning and Zoning Law (Chapter 1
(commencing with Section 65000) of Division 1 of Title 7 of the
Government Code) relating to zoning.

f) This section shall not supersede any existing authority of a transit
operator for joint development.

CHAPTER 271

An act to amend Section 10609.4 of the Welfare and Institutions Code,
relating to human services.

[Approved by Governor August 26, 2002. Filed with
Secretary of State August 26, 2002.]

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

SECTION 1. Section 10609.4 of the Welfare and Institutions Code
is amended to read:

10609.4. (a) On or before July 1, 2000, the State Department of
Social Services, in consultation with county and state representatives,
foster youth, and advocates, shall do both of the following:

1. Develop statewide standards for the implementation and
administration of the Independent Living Program established pursuant
to the federal Consolidated Omnibus Budget Reconciliation Act of 1985
(Public Law 99-272).

2. Define the outcomes for the Independent Living Program and the
characteristics of foster youth enrolled in the program for data collection
purposes.
(b) Each county department of social services shall include in its annual Independent Living Program report both of the following:

1. An accounting of federal and state funds allocated for implementation of the program. Expenditures shall be related to the specific purposes of the program. Program purposes may include, but are not limited to, all of the following:
   A. Enabling participants to seek a high school diploma or its equivalent or to take part in appropriate vocational training, and providing job readiness training and placement services, or building work experience and marketable skills, or both.
   B. Providing training in daily living skills, budgeting, locating and maintaining housing, and career planning.
   C. Providing for individual and group counseling.
   D. Integrating and coordinating services otherwise available to participants.
   E. Providing each participant with a written transitional independent living plan that will be based on an assessment of his or her needs and that will be incorporated into his or her case plan.
   F. Providing participants with other services and assistance designed to improve independent living.

2. A detail of the characteristics of foster youth enrolled in their independent living programs and the outcomes achieved based on the information developed by the department pursuant to subdivision (a).

(c) In consultation with the department, a county may use different methods and strategies to achieve the standards and outcomes of the Independent Living Program developed pursuant to subdivision (a).

(d) In consultation with the County Welfare Directors Association, the California Youth Connection, and other stakeholders, the department shall develop and adopt emergency regulations in accordance with Section 11346.1 of the Government Code that counties shall be required to meet when administering the Independent Living Program and that are achievable within existing program resources. The initial adoption of emergency regulations and one readoption of the initial regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Initial emergency regulations and the first readoption of those regulations shall be exempt from review by the Office of Administrative Law. The initial emergency regulations and the first readoption of those regulations authorized by this subdivision shall be submitted to the Office of Administrative Law for filing with the Secretary of State and each shall remain in effect for no more than 180 days.
CHAPTER 272

An act to add Chapter 12 (commencing with Section 1795) to Division 2 of the Health and Safety Code, relating to care facilities.

[Approved by Governor August 26, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Chapter 12 (commencing with Section 1795) is added to Division 2 of the Health and Safety Code, to read:

CHAPTER 12. FAMILY NOTIFICATION

1795. (a) Notwithstanding any other provision of law, a skilled nursing facility as defined in subdivision (c) of Section 1250, any intermediate care facility, as defined in subdivision (d), (e), (g), and (h) of Section 1250, or a congregate living facility, as defined in subdivision (i) of Section 1250, shall make reasonable efforts to contact the person named in the resident’s admission agreement as the resident’s contact person, or the resident’s responsible person, within 24 hours after a significant change in the resident’s health or mental status.

(b) Notwithstanding any other provision of law, a residential care facility for the elderly, as defined in subdivision (k) of Section 1569.2, shall make reasonable efforts to contact the person named in the resident’s admission agreement as the resident’s contact person, or the resident’s responsible person, within 24 hours after a significant change in the resident’s health or mental status.

CHAPTER 273

An act to add Section 120871 to the Health and Safety Code, relating to health.

[Approved by Governor August 26, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 120871 is added to the Health and Safety Code, to read:

120871. (a) The department shall authorize the establishment of training programs throughout the state for counselors for publicly
funded HIV testing programs. These training programs shall be conducted by community-based, nonprofit organizations with demonstrated expertise in providing free, anonymous, or confidential HIV testing services. The programs may be offered at flexible times, so as to facilitate the training of volunteer and part-time counselors.

(b) All participating community-based organizations shall follow curriculum content and design approved by the department for training programs administered pursuant to this section.

(c) All counselors trained in programs authorized by this section shall be subject to existing state and local testing and successful completion of training.

(d) All costs associated with training programs administered pursuant to this section shall be absorbed by participating community-based organizations. This section shall not be construed to require or prohibit the funding of any training program administered pursuant to this section by the department, or by any local government administering a training program for HIV counselors.

(e) This section shall not be construed to prohibit or otherwise restrict community-based organizations from participating in existing local training programs.

CHAPTER 274

An act to amend Sections 104150 and 104315 of the Health and Safety Code, and to amend Section 30461.6 of the Revenue and Taxation Code, relating to public health.

[Approved by Governor August 26, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 104150 of the Health and Safety Code is amended to read:

104150. (a) A provider or entity that participates in the grant made to the department by the federal Centers for Disease Control and Prevention breast and cervical cancer early detection program established under Title XV of the Public Health Service Act (42 U.S.C. Sec. 300k et seq.) in accordance with requirements of Section 1504 of that act (42 U.S.C. Sec. 300n) may only render screening services under the grant to an individual if the provider or entity determines that the individual’s family income does not exceed 200 percent of the federal poverty level.
(b) The department shall provide for breast cancer and cervical cancer screening services under the grant at the level of funding budgeted from state and other resources during the fiscal year in which the Legislature has appropriated funds to the department for this purpose. These screening services shall not be deemed to be an entitlement.

(c) To implement the federal breast and cervical cancer early detection program specified in this section, the department may contract, to the extent permitted by Section 19130 of the Government Code, with public and private entities, or utilize existing health care service provider enrollment and payment mechanisms, including the Medi-Cal program’s fiscal intermediary. However, the Medi-Cal program’s fiscal intermediary shall only be utilized if services provided under the program are specifically identified and reimbursed in a manner that does not claim federal financial reimbursement. Any contracts with, and the utilization of, the Medi-Cal program’s fiscal intermediary shall not be subject to Chapter 3 (commencing with Section 12100) of Part 2 of Division 2 of the Public Contract Code. Contracts to implement the federal breast and cervical cancer early detection program entered into by the department with entities other than the Medi-Cal program’s fiscal intermediary shall not be subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

SEC. 2. Section 104315 of the Health and Safety Code is amended to read:

104315. (a) The Prostate Cancer Screening Program shall be established in the State Department of Health Services.

(b) The program shall apply to both of the following:

(1) Uninsured men 50 years of age and older.

(2) Uninsured men between 40 and 50 years of age who are at high risk for prostate cancer, upon the advice of a physician or upon the request of the patient.

(c) For purposes of this chapter, “uninsured” means not covered by any of the following:

(1) Medi-Cal.

(2) Medicare.

(3) A health care service plan contract or policy of disability insurance that covers screening for prostate cancer for men 50 years of age and older, and for men between 40 and 50 years of age who are at high risk for prostate cancer upon the advice of a physician or upon the request of the patient.

(4) Any other form of health care coverage that covers screening for prostate cancer for men 50 years of age and older, and for men between 40 and 50 years of age who are at high risk for prostate cancer upon the advice of a physician or upon the request of the patient.

(d) The program shall include all of the following:
(1) Screening of men for prostate cancer as an early detection health care measure.

(2) After screening, medical referral of screened men and services necessary for definitive diagnosis.

(3) If a positive diagnosis is made, then assistance and advocacy shall be provided to help the person obtain necessary treatment.

(4) Outreach and health education activities to ensure that uninsured men are aware of and appropriately utilize the services provided by the program.

(e) Any entity funded by the program shall coordinate with other local providers of prostate cancer screening, diagnostic, followup, education, and advocacy services to avoid duplication of effort. Any entity funded by the program shall comply with any applicable state and federal standards regarding prostate cancer screening.

(f) Administrative costs of the department shall not exceed 10 percent of the funds allocated to the program. Indirect costs of the entities funded by this program shall not exceed 12 percent. The department shall define “indirect costs” in accordance with applicable state and federal law.

(g) Any entity funded by the program shall collect data and maintain records that are determined by the department to be necessary to facilitate the state department’s ability to monitor and evaluate the effectiveness of the entities and the program. Commencing with the program’s second year of operation, the department shall submit an annual report to the Legislature and any other appropriate entity. The report shall describe the activities and effectiveness of the program and shall include, but not be limited to, the following types of information regarding those served by the program:

(1) The number.
(2) The ethnic, geographic, and age breakdown.
(3) The stages of presentation.
(4) The diagnostic and treatment status.

(h) The department or any entity funded by the program shall collect personal and medical information necessary to administer the program from any individual applying for services under the program. The information shall be confidential and shall not be disclosed other than for purposes directly connected with the administration of the program or except as otherwise provided by law or pursuant to prior written consent of the subject of the information.

(i) The department or any entity funded by the program may disclose the confidential information to medical personnel and fiscal intermediaries of the state to the extent necessary to administer the program, and to other state public health agencies or medical researchers if the confidential information is necessary to carry out the duties of
those agencies or researchers in the investigation, control, or surveillance of prostate cancer.

(j) The department shall adopt regulations to implement the Prostate Cancer Screening Program in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(k) This section shall not be implemented unless and until funds are appropriated for this purpose in the annual Budget Act.

(l) To implement the Prostate Cancer Screening Program, the department may contract, to the extent permitted by Section 19130 of the Government Code, with public and private entities, or utilize existing health care service provider enrollment and payment mechanisms, including the Medi-Cal program’s fiscal intermediary. However, the Medi-Cal program’s fiscal intermediary shall only be utilized if services provided under the program are specifically identified and reimbursed in a manner that does not claim federal financial reimbursement. Any contracts with, and the utilization of, the Medi-Cal program’s fiscal intermediary shall not be subject to Chapter 3 (commencing with Section 12100) of Part 2 of Division 2 of the Public Contract Code. Contracts to implement the Prostate Cancer Screening Program entered into by the department with entities other than the Medi-Cal program’s fiscal intermediary shall not be subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

SEC. 3. Section 30461.6 of the Revenue and Taxation Code is amended to read:

30461.6. (a) Notwithstanding Section 30461, the board shall transmit the revenue derived from the increase in the cigarette tax rate of one mill ($0.001) per cigarette imposed by Section 30101 on and after January 1, 1994, to the Treasurer to be deposited in the State Treasury to the credit of the Breast Cancer Fund, which fund is hereby created. The Breast Cancer Fund shall consist of two accounts: the Breast Cancer Research Account and the Breast Cancer Control Account. The revenues deposited in the fund shall be divided equally between the two accounts.

(b) The moneys in the accounts within the Breast Cancer Fund shall, upon appropriation by the Legislature, be allocated as follows:

(1) The moneys in the Breast Cancer Research Account shall be allocated for research with respect to the cause, cure, treatment, earlier detection, and prevention of breast cancer as follows:

(A) Ten percent to the Cancer Surveillance Section of the State Department of Health Services for the collection of breast cancer-related data and the conduct of breast cancer-related epidemiological research by the state cancer registry established pursuant to Section 103885 of the Health and Safety Code.
(B) Ninety percent to the Breast Cancer Research Program, that is hereby created at the University of California, for the awarding of grants and contracts to researchers for research with respect to the cause, cure, treatment, prevention, and earlier detection of breast cancer and with respect to the cultural barriers to accessing the health care system for early detection and treatment of breast cancer.

(2) The moneys in the Breast Cancer Control Account shall be allocated to the Breast Cancer Control Program, that is hereby created for the provision of early breast cancer detection services for uninsured and underinsured women. The Breast Cancer Control Program shall be established in the State Department of Health Services and shall be administered in coordination with the breast and cervical cancer control program established pursuant to Public Law 101-354.

(c) The early breast cancer detection services provided by the Breast Cancer Control Program shall include all of the following:

(1) Screening, including mammography, of women for breast cancer as an early detection health care measure.

(2) After screening, medical referral of screened women and services necessary for definitive diagnosis, including nonradiological techniques or biopsy.

(3) If a positive diagnosis is made, then assistance and advocacy shall be provided to help the person obtain necessary treatment.

(4) Outreach and health education activities to ensure that uninsured and underinsured women are aware of and appropriately utilize the services provided by the Breast Cancer Control Program.

(d) Any entity funded by the Breast Cancer Control Program shall coordinate with other local providers of breast cancer screening, diagnostic, followup, education, and advocacy services to avoid duplication of effort. Any entity funded by the program shall comply with any applicable state and federal standards regarding mammography quality assurance.

(e) Administrative costs of the State Department of Health Services shall not exceed 10 percent of the funds allocated to the Breast Cancer Control Program created pursuant to paragraph (2) of subdivision (b). Indirect costs of the entities funded by this program shall not exceed 12 percent. The department shall define “indirect costs” in accordance with applicable state and federal law.

(f) Any entity funded by the Breast Cancer Control Program shall collect data and maintain records that are determined by the State Department of Health Services to be necessary to facilitate the state department’s ability to monitor and evaluate the effectiveness of the entities and the program. Commencing with the program’s second year of operation, the State Department of Health Services shall submit an annual report to the Legislature and any other appropriate entity. The
costs associated with this report shall be paid from the allocation made pursuant to paragraph (2) of subdivision (b). The report shall describe the activities and effectiveness of the program and shall include, but not be limited to, the following types of information regarding those served by the program:

(1) The number.
(2) The ethnic, geographic, and age breakdown.
(3) The stages of presentation.
(4) The diagnostic and treatment status.

(g) The Breast Cancer Control Program shall be conducted in consultation with the Breast Cancer Research Program created pursuant to subparagraph (B) of paragraph (1) of subdivision (b).

(h) In implementing the Breast Cancer Control Program, the State Department of Health Services may appoint and consult with an advisory panel appointed by the State Director of Health Services and consisting of one ex officio, nonvoting member from the Breast Cancer Research Program, breast cancer researchers, and representatives from voluntary, nonprofit health organizations, health care professional organizations, breast cancer survivor groups, and breast cancer and health care-related advocacy groups. It is the intent of the Legislature that breast cancer-related survivors and advocates and health advocates for low-income women compose at least one-third of the advisory panel. It is also the intent of the Legislature that the State Department of Health Services collaborate closely with the panel.

(i) It is the intent of the Legislature in enacting the Breast Cancer Control Program to decrease cancer mortality rates attributable to breast cancer among uninsured and underinsured women, with special emphasis on low-income, Native American, and minority women. It is also the intent of the Legislature that the communities served by the Breast Cancer Control Program reflect the ethnic, racial, cultural, and geographic diversity of the state and that the Breast Cancer Control Program fund entities where uninsured and underinsured women are most likely to seek their health care.

(j) The State Department of Health Services or any entity funded by the Breast Cancer Control Program shall collect personal and medical information necessary to administer this program from any individual applying for services under the program. The information shall be confidential and shall not be disclosed other than for purposes directly connected with the administration of this program or except as otherwise provided by law or pursuant to prior written consent of the subject of the information.

The State Department of Health Services or any entity funded by the Breast Cancer Control Program may disclose the confidential information to medical personnel and fiscal intermediaries of the state
to the extent necessary to administer this program, and to other state public health agencies or medical researchers when the confidential information is necessary to carry out the duties of those agencies or researchers in the investigation, control, or surveillance of breast cancer.

(k) The State Department of Health Services shall adopt regulations to implement this act in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The initial adoption of implementing regulations shall be deemed an emergency and shall be considered as necessary for the immediate preservation of the public peace, health and safety, or general welfare, within the meaning of Section 11346.1. Emergency regulations adopted pursuant to this section shall remain in effect for no more than 180 days.

(l) It is the intent of the Legislature in enacting this section that this section supersede and be operative in place of Section 30461.6 of the Revenue and Taxation Code as added by Assembly Bill 478 of the 1993–94 Regular Session.

(m) To implement the Breast Cancer Control Program, the State Department of Health Services may contract, to the extent permitted by Section 19130 of the Government Code, with public and private entities, or utilize existing health care service provider enrollment and payment mechanisms, including the Medi-Cal program’s fiscal intermediary. However, the Medi-Cal program’s fiscal intermediary shall only be utilized if services provided under the program are specifically identified and reimbursed in a manner that does not claim federal financial reimbursement. Any contracts with, and the utilization of, the Medi-Cal program’s fiscal intermediary shall not be subject to Chapter 3 (commencing with Section 12100) of Part 2 of Division 2 of the Public Contract Code. Contracts to implement the Breast Cancer Control Program entered into by the State Department of Health Services with entities other than the Medi-Cal program’s fiscal intermediary shall not be subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

CHAPTER  275

An act to amend Sections 230 and 230.1 of the Labor Code, relating to workplace protections.

[Approved by Governor August 26, 2002. Filed with Secretary of State August 26, 2002.]
The people of the State of California do enact as follows:

SECTION 1. Section 230 of the Labor Code is amended to read:

230. (a) An employer may not discharge or in any manner discriminate against an employee for taking time off to serve as required by law on an inquest jury or trial jury, if the employee, prior to taking the time off, gives reasonable notice to the employer that he or she is required to serve.

(b) An employer may not discharge or in any manner discriminate or retaliate against an employee, including, but not limited to, an employee who is a victim of a crime, for taking time off to appear in court to comply with a subpoena or other court order as a witness in any judicial proceeding.

(c) An employer may not discharge or in any manner discriminate or retaliate against an employee who is a victim of domestic violence or a victim of sexual assault for taking time off from work to obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the victim or his or her child.

(d) (1) As a condition of taking time off for a purpose set forth in subdivision (c), the employee shall give the employer reasonable advance notice of the employee’s intention to take time off, unless the advance notice is not feasible.

(2) When an unscheduled absence occurs, the employer shall not take any action against the employee if the employee, within a reasonable time after the absence, provides a certification to the employer. Certification shall be sufficient in the form of any of the following:

(A) A police report indicating that the employee was a victim of domestic violence or sexual assault.

(B) A court order protecting or separating the employee from the perpetrator of an act of domestic violence or sexual assault, or other evidence from the court or prosecuting attorney that the employee has appeared in court.

(C) Documentation from a medical professional, domestic violence advocate or advocate for victims of sexual assault, health care provider, or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting in victimization from an act of domestic violence or sexual assault.

(3) To the extent allowed by law, the employer shall maintain the confidentiality of any employee requesting leave under subdivision (c).

(e) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and conditions of employment by his or her employer because the employee has taken time off for a purpose set forth
in subdivision (a), (b), or (c) shall be entitled to reinstatement and
reimbursement for lost wages and work benefits caused by the acts of the
employer. Any employer who willfully refuses to rehire, promote, or
otherwise restore an employee or former employee who has been
determined to be eligible for rehiring or promotion by a grievance
procedure or hearing authorized by law is guilty of a misdemeanor.

(f) (1) Any employee who is discharged, threatened with discharge,
demoted, suspended, or in any other manner discriminated or retaliated
against in the terms and conditions of employment by his or her
employer because the employee has exercised his or her rights as set
forth in subdivision (a), (b), or (c) may file a complaint with the Division
of Labor Standards Enforcement of the Department of Industrial
Relations pursuant to Section 98.7.

(2) Notwithstanding any time limitation in Section 98.7, an employee
filing a complaint with the division based upon a violation of
subdivision (c) shall have one year from the date of occurrence of the
violation to file his or her complaint.

(g) An employee may use vacation, personal leave, or compensatory
time off that is otherwise available to the employee under the applicable
terms of employment, unless otherwise provided by a collective
bargaining agreement, for time taken off for a purpose specified in
subdivision (a), (b), or (c). The entitlement of any employee under this
section shall not be diminished by any collective bargaining agreement
term or condition.

(h) For purposes of this section:

(1) “Domestic violence” means any of the types of abuse set forth in
Section 6211 of the Family Code, as amended.

(2) “Sexual assault” means any of the crimes set forth in Section 261,
261.5, 262, 265, 266, 266a, 266b, 266c, 266g, 266j, 267, 269, 273.4,
285, 286, 288, 288a, 288.5, 289, or 311.4 of the Penal Code, as amended.

SEC. 2. Section 230.1 of the Labor Code is amended to read:

230.1. (a) In addition to the requirements and prohibitions imposed
on employees pursuant to Section 230, an employer with 25 or more
employees may not discharge or in any manner discriminate or retaliate
against an employee who is a victim of domestic violence or a victim of
sexual assault for taking time off from work to attend to any of the
following:

(1) To seek medical attention for injuries caused by domestic
violence or sexual assault.

(2) To obtain services from a domestic violence shelter, program, or
rape crisis center as a result of domestic violence or sexual assault.

(3) To obtain psychological counseling related to an experience of
domestic violence or sexual assault.
(4) To participate in safety planning and take other actions to increase safety from future domestic violence or sexual assault, including temporary or permanent relocation.

(b) (1) As a condition of taking time off for a purpose set forth in subdivision (a), the employee shall give the employer reasonable advance notice of the employee’s intention to take time off, unless the advance notice is not feasible.

(2) When an unscheduled absence occurs, the employer shall not take any action against the employee if the employee, within a reasonable time after the absence, provides a certification to the employer. Certification shall be sufficient in the form of any of the following:

(A) A police report indicating that the employee was a victim of domestic violence or sexual assault.

(B) A court order protecting or separating the employee from the perpetrator of an act of domestic violence or sexual assault, or other evidence from the court or prosecuting attorney that the employee appeared in court.

(C) Documentation from a medical professional, domestic violence advocate or advocate for victims of sexual assault, health care provider, or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting in victimization from an act of domestic violence or sexual assault.

(3) To the extent allowed by law, employers shall maintain the confidentiality of any employee requesting leave under subdivision (a).

(c) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and conditions of employment by his or her employer because the employee has taken time off for a purpose set forth in subdivision (a) is entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer. Any employer who willfully refuses to rehire, promote, or otherwise restore an employee or former employee who has been determined to be eligible for rehiring or promotion by a grievance procedure or hearing authorized by law is guilty of a misdemeanor.

(d) (1) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and conditions of employment by his or her employer because the employee has exercised his or her rights as set forth in subdivision (a) may file a complaint with the Division of Labor Standards Enforcement of the Department of Industrial Relations pursuant to Section 98.7.

(2) Notwithstanding any time limitation in Section 98.7, an employee filing a complaint with the division based upon a violation of
subdivision (a) shall have one year from the date of occurrence of the violation to file his or her complaint.

(e) An employee may use vacation, personal leave, or compensatory time off that is otherwise available to the employee under the applicable terms of employment, unless otherwise provided by a collective bargaining agreement, for time taken off for a purpose specified in subdivision (a). The entitlement of any employee under this section shall not be diminished by any collective bargaining agreement term or condition.

(f) This section does not create a right for an employee to take unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to the unpaid leave time permitted by, the federal Family and Medical Leave Act of 1993 (29 U.S.C. Sec. 2606 et seq.).

(g) For purposes of this section:

(1) "Domestic violence" means any of the types of abuse set forth in Section 6211 of the Family Code, as amended.

(2) "Sexual assault" means any of the crimes set forth in Section 261, 261.5, 262, 265, 266, 266a, 266b, 266c, 266g, 266j, 267, 269, 273.4, 285, 286, 288, 288a, 288.5, 289, or 311.4 of the Penal Code, as amended.

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

CHAPTER 276

An act to amend Section 1373.95 of the Health and Safety Code, and to amend Section 10133.55 of the Insurance Code, relating to health care.

[Approved by Governor August 26, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 1373.95 of the Health and Safety Code is amended to read:

1373.95. (a) (1) Except as provided in paragraph (2), every health care service plan that provides coverage on a group basis shall file with
the Department of Managed Health Care, a written policy describing how the health plan shall facilitate the continuity of care for new enrollees receiving services during a current episode of care for an acute condition from a nonparticipating provider. This written policy shall describe the process used to facilitate the continuity of care, including the assumption of care by a participating provider.

(2) On or before July 1, 2002, a health care service plan that provides coverage on an employer-sponsored group basis or a specialized health care service plan that offers professional mental health services on an employer-sponsored group basis shall file with the department a written policy describing how the health plan shall facilitate the continuity of care for new enrollees receiving services for an acute, serious, or chronic mental health condition from a nonparticipating mental health provider when the enrollee’s employer has changed health plans. Every written policy shall allow the new enrollee a reasonable transition period to continue his or her course of treatment with the nonparticipating mental health provider prior to transferring to another participating provider and shall ensure that the provision of mental health services on a timely, appropriate, and medically necessary basis from the nonparticipating provider. The policy may provide that the length of the transition period is determined in account the severity of the enrollee’s condition and the amount of time reasonably necessary to effect a safe transfer on a case-by-case basis. Nothing in this paragraph shall be construed to require the health care service plan or specialized health care service plan to accept a nonparticipating mental health provider onto its panel for treatment of other enrollees. For purposes of the continuing treatment of the transferring enrollee, the health care service plan or specialized health care service plan may require the nonparticipating mental health provider, as a condition of the right conferred under this section, to enter into the standard mental health provider contract.

(b) Notice of the policy and information regarding how enrollees may request a review under the policy shall be provided to all new enrollees, except those enrollees who are not eligible as described in subdivision (e). A copy of the written policy shall be provided to eligible enrollees upon request. The written policy required to be filed under subdivision (a) shall describe how requests to continue services with an existing provider are reviewed by the health care service plan or the specialized health care service plan. The policy shall ensure that reasonable consideration is given to the potential clinical effect that a change of provider would have on the enrollee’s treatment for the condition.

(c) A health care service plan or specialized health care service plan may require any nonparticipating provider or nonparticipating mental health provider whose services are continued pursuant to the written policy to agree in writing to meet the same contractual terms and
conditions that are imposed upon the plan’s participating providers, including location within the plan’s service area, reimbursement methodologies, and rates of payment. If the health care service plan or specialized health care service plan determines that a patient’s health care treatment should temporarily continue with the patient’s existing provider or nonparticipating mental health provider, the health care service plan or specialized health care service plan shall not be liable for actions resulting solely from the negligence, malpractice, or other tortious or wrongful acts arising out of the provision of services by the existing provider or nonparticipating mental health provider.

(d) Nothing in this section shall require a health care service plan or specialized health care service plan to cover services or provide benefits that are not otherwise covered under the terms and conditions of the plan contract.

(e) The written policy shall not apply to any enrollee who is offered an out-of-network option, or who had the option to continue with his or her previous health plan or provider and instead voluntarily chose to change health plans.

(f) This section shall not apply to health care service plan contracts or specialized health care service plan contracts that include out-of-network coverage under which the enrollee is able to obtain services from the enrollee’s existing provider or nonparticipating mental health provider.

(g) (1) For purposes of this section, “provider” refers to a person who is described in subdivision (f) of Section 900 of the Business and Professions Code.

(2) For purposes of this section, “nonparticipating mental health provider” refers to a psychiatrist, licensed psychologist, licensed marriage and family therapist, or licensed social worker who is not part of the health care service plan or specialized health care service plan.

SEC. 2. Section 10133.55 of the Insurance Code is amended to read:

10133.55. (a) (1) Except as provided in paragraph (2), every disability insurer covering hospital, medical, and surgical expenses on a group basis that contracts with providers for alternative rates pursuant to Section 10133 and limits payments under those policies to services secured by insureds and subscribers from providers charging alternative rates pursuant to these contracts, shall file with the Department of Insurance, a written policy describing how the insurer shall facilitate the continuity of care for new insureds or enrollees receiving services during a current episode of care for an acute condition from a noncontracting provider. This written policy shall describe the process used to facilitate continuity of care, including the assumption of care by a contracting provider.
(2) On or before July 1, 2002, every disability insurer covering hospital, medical, and surgical expenses on a group basis that contracts with providers for alternative rates pursuant to Section 10133 and limits payments under those policies to services secured by insureds and subscribers from providers charging alternative rates pursuant to these contracts, shall file with the department a written policy describing how the insurer shall facilitate the continuity of care for new enrollees who have been receiving services for an acute, serious, or chronic mental health condition from a nonparticipating mental health provider when the enrollee’s employer has changed policies. Every written policy shall allow the new enrollee a reasonable transition period to continue his or her course of treatment with the nonparticipating mental health provider prior to transferring to another participating provider and shall include the provision of mental health services on a timely, appropriate, and medically necessary basis from the nonparticipating provider. The policy may provide that the length of the transition period take into account the severity of the enrollee’s condition and the amount of time reasonably necessary to effect a safe transfer on a case-by-case basis. Nothing in this paragraph shall be construed to require the insurer to accept a nonparticipating mental health provider onto its panel for treatment of other enrollees. For purposes of the continuing treatment of the transferring enrollee, the insurer may require the nonparticipating mental health provider, as a condition of the right conferred under this section, to enter into the standard mental health provider contract.

(b) Notice of the policy and information regarding how enrollees may request a review under the policy shall be provided to all new enrollees, except those enrollees who are not eligible as described in subdivision (e). A copy of the written policy shall be provided to eligible enrollees upon request. The written policy required to be filed under subdivision (a) shall describe how requests to continue services with an existing noncontracting provider are reviewed by the insurer. The policy shall ensure that reasonable consideration is given to the potential clinical effect that a change of provider would have on the insured’s or subscriber’s treatment for the acute condition.

(c) An insurer may require any nonparticipating provider whose services are continued pursuant to the written policy to agree in writing to meet the same contractual terms and conditions that are imposed upon the insurer’s participating providers, including location within the service area, reimbursement methodologies, and rates of payment. If the insurer determines that a patient’s health care treatment should temporarily continue with the patient’s existing provider or nonparticipating mental health provider, the insurer shall not be liable for actions resulting solely from the negligence, malpractice, or other
tortious or wrongful acts arising out of the provision of services by the existing provider or nonparticipating mental health provider.

(d) Nothing in this section shall require an insurer to cover services or provide benefits that are not otherwise covered under the terms and conditions of the policy contract.

(e) The written policy shall not apply to any insured or subscriber who is offered an out-of-network option, or who had the option to continue with his or her previous health benefits carrier or provider and instead voluntarily chose to change.

(f) This section shall not apply to insurer contracts that include out-of-network coverage under which the insured or subscriber is able to obtain services from the insured’s or subscriber’s existing provider or nonparticipating mental health provider.

(g) (1) For purposes of this section, “provider” refers to a person who is described in subdivision (f) of Section 900 of the Business and Professions Code.

(2) For purposes of this section, “nonparticipating mental health provider” refers to a psychiatrist, licensed psychologist, licensed marriage and family therapist, or licensed social worker who is not part of the insurer’s contracted provider network.

(h) This section shall only apply to a group disability insurance policy if it provides coverage for hospital, medical, or surgical benefits.

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

CHAPTER 277

An act to amend Section 21655.5 of the Vehicle Code, relating to paratransit vehicles.

[Approved by Governor August 26, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 21655.5 of the Vehicle Code is amended to read:
21655.5. (a) The Department of Transportation and local authorities, with respect to highways under their respective jurisdictions, may authorize or permit exclusive or preferential use of highway lanes for high-occupancy vehicles. Prior to establishing the lanes, competent engineering estimates shall be made of the effect of the lanes on safety, congestion, and highway capacity.

(b) The Department of Transportation and local authorities, with respect to highways under their respective jurisdictions, shall place and maintain, or cause to be placed and maintained, signs and other official traffic control devices to designate the exclusive or preferential lanes, to advise motorists of the applicable vehicle occupancy levels, and, except where ramp metering and bypass lanes are regulated with the activation of traffic signals, to advise motorists of the hours of high-occupancy vehicle usage. No person shall drive a vehicle upon those lanes except in conformity with the instructions imparted by the official traffic control devices. A motorcycle, a mass transit vehicle, or a paratransit vehicle that is clearly and identifiably marked on all sides of the vehicle with the name of the paratransit provider may be operated upon those exclusive or preferential use lanes unless specifically prohibited by a traffic control device.

(c) When responding to an existing emergency or breakdown in which a mass transit vehicle is blocking an exclusive or preferential use lane, a clearly marked mass transit vehicle, mass transit supervisor’s vehicle, or mass transit maintenance vehicle that is responding to the emergency or breakdown may be operated in the segment of the exclusive or preferential use lane being blocked by the mass transit vehicle, regardless of the number of persons in the vehicle responding to the emergency or breakdown, if both vehicles are owned or operated by the same agency, and that agency provides public mass transit services.

(d) For purposes of this section, a “paratransit vehicle” is defined in Section 462.

(e) For purposes of this section, a “mass transit vehicle” means a transit bus regularly used to transport paying passengers in mass transit service.

(f) It is the intent of the Legislature, in amending this section, to stimulate and encourage the development of ways and means of relieving traffic congestion on California highways and, at the same time, to encourage individual citizens to pool their vehicular resources and thereby conserve fuel and lessen emission of air pollutants.

(g) The provisions of this section regarding mass transit vehicles and paratransit vehicles shall only apply if the Director of Transportation
determines that the application will not subject the state to a reduction in the amount of federal aid for highways.

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CHAPTER 278

An act to add and repeal Sections 20677.6 and 20683.5 of the Government Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 26, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. The Legislature finds and declares that the purpose of this act is to implement the tentative agreements reached on June 18, 2002, between the state employer and State Bargaining Unit 9.

SEC. 2. Notwithstanding Section 3517.8, the provisions of the tentative agreements entered into by the state employer and the State Bargaining Unit 9 described in Section 1 that require the expenditure of funds to permit their implementation are hereby approved. Except as expressly modified by those tentative agreements, the provisions of the memorandum of understanding between the state employer and State Bargaining Unit 9 dated July 1, 1999, to June 30, 2001, continue in effect as provided in Section 3517.8.

SEC. 3. Section 20677.6 is added to the Government Code, to read:

20677.6. (a) Notwithstanding any provisions of this part to the contrary, the normal rate of contribution for state miscellaneous members in State Bargaining Unit 9 shall be the following:

(1) Effective as of a date determined by the Director of the Department of Personnel Administration, but no earlier than April 1, 2002, to June 30, 2003, inclusive, the normal rate of contribution for a member whose service is not included in the federal system shall be 1 percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid to that member for service rendered.

(2) Effective as of a date determined by the Director of the Department of Personnel Administration, but no earlier than April 1, 2002, to June 30, 2003, inclusive, the normal rate of contribution for a member whose service has been included in the federal system shall be zero percent of compensation for service rendered.

(b) Notwithstanding any provisions of Section 21073.7 to the contrary, a member who elects to become subject to the benefits
prescribed in Section 21354.1, and who is subject to this section, shall be subject to the normal rate of contribution set forth in this section.

(c) This section does not apply to state miscellaneous members who are subject to Section 21076.

(d) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

(e) This section shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute that is enacted before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Section 20683.5 is added to the Government Code, to read:

20683.5. (a) Notwithstanding any provisions of Section 20683 to the contrary, the normal rate of contribution for state safety members subject to Section 21369.1 in State Bargaining Unit 9 shall be, effective as of a date determined by the Director of the Department of Personnel Administration, but no earlier than April 1, 2002, to June 30, 2003, inclusive, 1 percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid to that member for service rendered.

(b) This section does not apply to members employed by the California State University or the University of California.

(c) This section shall apply to state employees in state Bargaining Unit 9. If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

(d) This section shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends the date on which it becomes inoperative and is repealed.

SEC. 5. The sum of four million six hundred forty-three thousand dollars ($4,643,000) is hereby appropriated in augmentation of, and for the purpose of state employee compensation as provided in, Items 9800-001-0001, 9800-001-0494, and 9800-001-0988 of Section 2.00 of the Budget Act of 2001 (Chapter 106 of the Statutes of 2001) in accordance to the following schedule:
(a) Six hundred forty-nine thousand dollars ($649,000) from the General Fund in augmentation of Item 9800-001-0001.

(b) Two million five hundred fifty-six thousand dollars ($2,556,000) from unallocated special funds in augmentation of Item 9800-001-0494.

(c) One million four hundred thirty-eight thousand dollars ($1,438,000) from other unallocated nongovernmental cost funds in augmentation of Item 9800-001-0988.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible, and thereby facilitate the orderly administration of state government at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 279

An act to amend Section 1722 of the Civil Code, relating to contracts.

[Approved by Governor August 26, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 1722 of the Civil Code is amended to read:

1722. (a) (1) Whenever a contract is entered into between a consumer and a retailer with 25 or more employees relating to the sale of merchandise which is to be delivered by the retailer or the retailer’s agent to the consumer at a later date, and the parties have agreed that the presence of the consumer is required at the time of delivery, the retailer and the consumer shall agree, either at the time of the sale or at a later date prior to the delivery date, on a four-hour time period within which any delivery shall be made. Whenever a contract is entered into between a consumer and a retailer with 25 or more employees for service or repair of merchandise, whether or not the merchandise was sold by the retailer to the consumer, and the parties have agreed that the presence of the consumer is required at the time of service or repair, upon receipt of a request for service or repair under the contract, the retailer and the consumer shall agree, prior to the date of service or repair, on a four-hour period within which the service or repair shall be commenced. Once a delivery, service, or repair time is established, the retailer or the retailer’s
agent shall deliver the merchandise to the consumer, or commence service or repair of the merchandise, within that four-hour period.

(2) If the merchandise is not delivered, or service or repair are not commenced, within the specified four-hour period, except for delays caused by unforeseen or unavoidable occurrences beyond the control of the retailer, the consumer may bring an action in small claims court against the retailer for lost wages, expenses actually incurred, or other actual damages not exceeding a total of six hundred dollars ($600).

(3) No action shall be considered valid if the consumer was not present at the time, within the specified period, when the retailer or the retailer’s agent attempted to make the delivery, service, or repairs or made a diligent attempt to notify the consumer by telephone or in person of its inability to do so because of unforeseen or unavoidable occurrences beyond its control. If notification is by telephone, the retailer or the retailer’s agent shall leave a telephone number for a return telephone call by the consumer to the retailer or its agent, to enable the consumer to arrange a new two-hour period for delivery, service, or repair with the retailer or the retailer’s agent.

(4) In any small claims action, logs and other business records maintained by the retailer or the retailer’s agent in the ordinary course of business shall be prima facie evidence of the time period specified for the delivery, service, or repairs and of the time when the merchandise was delivered, or of a diligent attempt by the retailer or the retailer’s agent to notify the consumer of delay caused by unforeseen or unavoidable occurrences.

(5) It shall be a defense to the action if a diligent attempt was made to notify the consumer of the delay caused by unforeseen or unavoidable occurrences beyond the control of the retailer or the retailer’s agent, or the retailer or the retailer’s agent was unable to notify the consumer of the delay because of the consumer’s absence or unavailability during the four-hour period, and, in either instance, the retailer or the retailer’s agent makes the delivery, service, or repairs within two hours of a newly agreed upon time or, if the consumer unreasonably declines to arrange a new time for the delivery, service, or repairs.

(b) (1) Cable television companies shall inform their subscribers of their right to service connection or repair within a four-hour period, if the presence of the subscriber is required, by offering the four-hour period at the time the subscriber calls for service connection or repair. Whenever a subscriber contracts with a cable television company for a service connection or repair which is to take place at a later date, and the parties have agreed that the presence of the subscriber is required, the cable company and the subscriber shall agree, prior to the date of service connection or repair, on the time for the commencement of the four-hour period for the service connection or repair.
(2) If the service connection or repair is not commenced within the specified four-hour period, except for delays caused by unforeseen or unavoidable occurrences beyond the control of the company, the subscriber may bring an action in small claims court against the company for lost wages, expenses actually incurred or other actual damages not exceeding a total of six hundred dollars ($600).

(3) No action shall be considered valid if the subscriber was not present at the time, within the specified period, that the company attempted to make the service connection or repair or made a diligent attempt to notify the subscriber by telephone or in person of its inability to do so because of unforeseen or unavoidable occurrences beyond its control. If notification is by telephone, the cable television company or its agent shall leave a telephone number for a return telephone call by the subscriber to the company or its agent, to enable the consumer to arrange a new two-hour period for service connection or repair.

(4) In any small claims action, logs and other business records maintained by the company or its agents in the ordinary course of business shall be prima facie evidence of the time period specified for the commencement of the service connection or repair and the time that the company or its agents attempted to make the service connection or repair, or of a diligent attempt by the company to notify the subscriber in person or by telephone of a delay caused by unforeseen or unavoidable occurrences.

(5) It shall be a defense to the action if a diligent attempt was made to notify the subscriber of a delay caused by unforeseen or unavoidable occurrences beyond the control of the company or its agents, or the company or its agents were unable to notify the subscriber because of the subscriber’s absence or unavailability during the four-hour period, and, in either instance, the cable television company commenced service or repairs within a newly agreed upon two-hour period.

(6) No action shall be considered valid against a cable television company pursuant to this section when the franchise or any local ordinance provides the subscriber with a remedy for a delay in commencement of a service connection or repair and the subscriber has elected to pursue that remedy. If a subscriber elects to pursue his or her remedies against a cable television company under this section, the franchising or state or local licensing authority shall be barred from imposing any fine, penalty, or other sanction against the company, arising out of the same incident.

(c) (1) Utilities shall inform their subscribers of their right to service connection or repair within a four-hour period, if the presence of the subscriber is required, by offering the four-hour period at the time the subscriber calls for service connection or repair. Whenever a subscriber contracts with the utility for a service connection or repair, and the
parties have agreed that the presence of the subscriber is required, and the subscriber has requested a four-hour appointment, the utility and the subscriber shall agree, prior to the date of service connection or repair, on the time for the commencement of the four-hour period for the service connection or repair.

(2) If the service connection or repair is not commenced within the four-hour period provided under paragraph (1) or another period otherwise agreed to by the utility and the subscriber, except for delays caused by unforeseen or unavoidable circumstances beyond the control of the utility, the subscriber may bring an action in small claims court against the utility for lost wages, expenses actually incurred, or other actual damages not exceeding a total of six hundred dollars ($600).

(3) No action shall be considered valid if the subscriber was not present at the time, within the specified period, that the utility attempted to make the service connection or repair or made a diligent attempt to notify the subscriber by telephone or in person of its inability to do so because of unforeseen or unavoidable occurrences beyond its control. If notification is by telephone, the utility or its agent shall leave a telephone number for a return telephone call by the subscriber to the utility or its agent, to enable the consumer to arrange a new two-hour period for service connection or repair.

(4) In any small claims action, logs and other business records maintained by the utility or its agents in the ordinary course of business shall be prima facie evidence of the time period specified for the commencement of the service connection or repair and of the time that the utility attempted to make the service connection or repair, or of a diligent attempt by a utility to notify the subscriber in person or by telephone of a delay caused by unforeseen or unavoidable occurrences.

(5) It shall be a defense to the action if a diligent attempt was made by the utility to notify the subscriber of a delay caused by unforeseen or unavoidable occurrences beyond the control of the utility, and the utility commenced service within a newly agreed upon two-hour period.

(d) Any provision of a delivery, service, or repair contract in which the consumer or subscriber agrees to modify or waive any of the rights afforded by this section is void as contrary to public policy.

CHAPTER  280

An act to add Section 29035.5 to the Public Utilities Code, relating to transportation.

[Approved by Governor August 26, 2002. Filed with Secretary of State August 26, 2002.]
The people of the State of California do enact as follows:

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

(a) The Metropolitan Transportation Commission, which is the regional transportation planning, financing, and coordinating agency for the nine bay area counties, in February 2001, announced the commission’s intent to develop a new regional transit expansion agreement for inclusion as part of the update of the Metropolitan Transportation Commission’s regional transportation plan.

(b) Ten bay area members of Congress, in March 2001, stated in a letter to the Metropolitan Transportation Commission that the representatives supported efforts by local and regional agencies to forge a new regional transit plan.

(c) The BART Board of Directors, in November 2001, reached an agreement with the Santa Clara Valley Transportation Authority for a BART extension to Santa Clara County.

(d) These events demonstrate the intent and willingness of local and regional government agencies to build a regional consensus supporting a transit plan for the Counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma, and the City and County of San Francisco.

(e) The Metropolitan Transportation Commission, in 1988 oversaw the last regional transit plan, known as Resolution 1876, which was memorialized in part in Senate Bill 1715 of the 1987–88 Regular Session, Chapter 1259 of the Statutes of 1988.

(f) The Metropolitan Transportation Commission, in December 2001, adopted Resolution 3434, the Regional Transit Expansion Program, which makes commitments for the next generation of regional transit expansion in the bay area and includes the revenue funding strategy for 19 high-priority transit projects. The resolution includes the revenue project funding strategy in 2001 dollars from a variety of funding sources, and additional resources will be needed in some cases to deliver projects. Estimated costs could change depending on a variety of factors. Completion of these projects will continue to require collaborative efforts to develop more financial commitments from local, regional, state, and federal sources.

(g) As new funding opportunities arise, the Metropolitan Transportation Commission, in cooperation with its partner agencies, may need to amend Resolution 3434, adopted December 2001, to reflect these opportunities.

(h) As stated in Resolution 3434, the region’s first priority for federal New Start funds is the BART extension to the San Francisco International Airport until the time that the project receives its final appropriation in Congress, currently expected in 2006. Thereafter, the
BART Warm Springs to Milpitas, San Jose, and Santa Clara extension and the Muni Central Subway project will share equal priority.

(i) It is the intent of the Legislature in memorializing this agreement to include Resolution 3434: the Regional Transit Expansion Program, in statute with the predecessor agreement, Resolution 1876, and list the specific commitments made to extend transit service in designated areas.

SEC. 2. Section 29035.5 is added to the Public Utilities Code, to read:

29035.5. Metropolitan Transportation Commission Resolution 3434, in December 2001, established the following Regional Transit Expansion Program for the San Francisco Bay area:

(a) BART to Warm Springs, sponsored by the Bay Area Rapid Transit District.

(b) BART from Warm Springs to Milpitas, San Jose, and Santa Clara, sponsored by the Santa Clara Valley Transportation Authority.

(c) San Francisco Muni Third Street Light-Rail Transit Project: Phase 2-New Central Subway, sponsored by the San Francisco County Transportation Authority and San Francisco Muni.

(d) BART/Oakland Airport Connector, sponsored by the Bay Area Rapid Transit District.

(e) CalTrain Downtown Extension/Rebuilt Transbay Terminal, sponsored by the San Francisco County Transportation Authority.

(f) CalTrain Rapid Rail/Electrification, sponsored by the Joint Powers Board (CalTrain).

(g) CalTrain Express/Phase 1, sponsored by the Joint Powers Board (CalTrain).

(h) Downtown to East Valley Light-Rail and Bus Rapid Transit: Phases 1 and 2, sponsored by the Santa Clara Valley Transportation Authority.

(i) Capitol Corridor: Phase 1 Expansion, sponsored by the Capitol Corridor Joint Powers Authority.

(j) AC Transit Oakland/San Leandro Bus Rapid Transit: Phase 1 (Enhanced Bus), sponsored by AC Transit.

(k) Regional Express Bus: Phase 1, sponsored by the Metropolitan Transportation Commission.

(l) Dumbarton Rail, sponsored by the Joint Powers Board (CalTrain).

(m) BART/East Contra Costa Rail Extension, sponsored by the Contra Costa Transportation Authority and BART.

(n) BART/Tri-Valley Rail Extension, sponsored by the Alameda County Congestion Management Agency and BART.

(o) Altamont Commuter Express (ACE): Service Expansion, sponsored by the Altamont Commuter Express.

(p) CalTrain Express: Phase 2, sponsored by the Joint Powers Board (CalTrain).
(q) Capitol Corridor: Phase 2 Enhancements, sponsored by the Capitol Corridor Joint Powers Authority.
(r) Sonoma-Marin Rail, sponsored by Sonoma-Marin Area Rail Transit.
(s) AC Transit Enhanced Bus: Hesperian/Foothill/MacArthur Corridors, sponsored by AC Transit.

CHAPTER 281

An act to add Section 422.1 to the Penal Code, relating to terrorist threats.

[Approved by Governor August 26, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 422.1 is added to the Penal Code, to read:

422.1. Every person who is convicted of a felony violation of Section 148.1 or 11418.1, under circumstances in which the defendant knew the underlying report was false, in addition to being ordered to comply with all other applicable restitution requirements and fine and fee provisions, shall also be ordered to pay full restitution to each of the following:

(a) Any person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency or instrumentality, or any other legal or commercial entity for any personnel, equipment, material, or clean up costs, and for any property damage, caused by the violation directly, or stemming from any emergency response to the violation or its aftermath.

(b) Any public or private entity incurring any costs for actual emergency response, for all costs of that response and for any clean up costs, including any overtime paid to uninvolved personnel made necessary by the allocation of resources to the emergency response and clean up.

(c) Restitution for the costs of response by a government entity under this section shall be determined in a hearing separate from the determination of guilt. The court shall order restitution in an amount no greater than the reasonable costs of the response. The burden shall be on the people to prove the reasonable costs of the response.

(d) In determining the restitution for the costs of response by a government entity, the court shall consider the amount of restitution to
be paid to the direct victim, as defined in subdivision (k) of Section 1202.4.

SEC. 2. Section 422.1 is added to the Penal Code, to read:

422.1. Every person who is convicted of a felony violation of Section 148.1 under circumstances in which the defendant knew the underlying report was false, in addition to being ordered to comply with all other applicable restitution requirements and fine and fee provisions, shall also be ordered to pay full restitution to each of the following:

(a) Any person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency or instrumentality, or any other legal or commercial entity for any personnel, equipment, material, or cleanup costs, and for any property damage, caused by the violation directly, or stemming from any emergency response to the violation or its aftermath.

(b) Any public or private entity incurring any costs for actual emergency response, for all costs of that response and for any cleanup costs, including any overtime paid to uninvolved personnel made necessary by the allocation of resources to the emergency response and cleanup.

(c) Restitution for the costs of response by a government entity under this section shall be determined in a hearing separate from the determination of guilt. The court shall order restitution in an amount no greater than the reasonable costs of the response. The burden shall be on the people to prove the reasonable costs of the response.

(d) In determining the restitution for the costs of response by a government entity, the court shall consider the amount of restitution to be paid to the direct victim as defined in subdivision (k) of Section 1202.4.

SEC. 3. Section 1 of this bill references Section 11418.1 of the Penal Code, which Assembly Bill 1838 and Senate Bill 1287 propose to add to the Penal Code. It shall only become operative if (1) Assembly Bill 1838, Senate Bill 1287, or both are enacted and become effective on or before January 1, 2003, and (2) each bill adds Section 11418.1 to the Penal Code. Section 2 of this bill shall only become operative if Section 11418.1 is not added to the Penal Code.

CHAPTER 282

An act to amend Sections 19406 and 19617.5 of, and to add Section 19617.3 to, the Business and Professions Code, relating to horse racing.

[Approved by Governor August 26, 2002. Filed with Secretary of State August 26, 2002.]
The people of the State of California do enact as follows:

SECTION 1. Section 19406 of the Business and Professions Code is amended to read:

19406. (a) A “California-bred horse” is a foal dropped by a mare in California after being conceived in California and remaining in California until the foal is weaned.

(b) A “California-bred thoroughbred” is a horse dropped by a mare in California after being conceived in California, or any thoroughbred horse dropped by a mare in California if the mare remains in California to be next bred to a thoroughbred stallion standing in California. If the mare cannot be bred for two successive breeding seasons but remains in California during that period, her foal shall be considered to be a California-bred thoroughbred.

(c) A “California-bred quarter horse” is a quarter horse foal conceived in California by a stallion standing in California at the time of conception.

(d) A “California-bred standardbred horse” is a standardbred foal dropped by a mare in California after being conceived in California and remaining in California until the foal is weaned, or any standardbred foal which is conceived in California on or after January 1, 1984.

(e) A “California-bred Appaloosa horse” is a horse dropped by a mare in California after being conceived in California, or any Appaloosa horse dropped by a mare in California if the mare remains in California to be next bred to an Appaloosa stallion standing in California. If the mare cannot be bred for two successive breeding seasons but remains in California during that period, her foal shall be considered to be a California-bred Appaloosa horse.

(f) A “California-bred paint horse” is a registered paint horse foal conceived in California by a stallion standing in California at the time of the conception, or by a registered paint horse stallion.

SEC. 2. Section 19617.3 is added to the Business and Professions Code, to read:

19617.3. (a) The following definitions govern the construction of this section:

(1) “Breeder” means a person who is registered as the breeder of a California-bred paint horse with the official registering agency and is named on the applicable Certificate of Registration issued by the American Paint Horse Association.

(2) “Eligible earnings” means the following:

(A) In the case of breeder premiums, the annual amount earned by a California-bred paint horse for finishing first or second in qualifying races.
(B) In the case of owners’ awards, the annual amount earned by a California-bred paint horse for finishing first or second in qualifying races.

(C) In the case of stallion awards, the annual amount earned by California-conceived or California-bred foals of an eligible paint horse sire for finishing first or second in qualifying races.

(D) In order for earnings from a qualifying race to be considered as eligible earnings, a California-bred paint horse shall be registered as such with the official registering agency before the entries were taken by the association for the qualifying race in which that horse earned purse money.

(E) For purposes of this paragraph, the maximum purse considered earned in any qualifying race within this state is two hundred thousand dollars ($200,000) for a win, and eighty thousand dollars ($80,000) for a second place finish.

(F) In determining the purse earned in any qualifying race that is a stakes race, the amount earned shall be based on the added money and other sources of the purse, such as nomination, entry, or starting fees, bonuses, and sponsor contributions, or any combination thereof.

(G) On or before February 1, of any year, the stallion owner shall verify with the official registering agency the eligibility of a stallion to receive the stallion award to which the owner is entitled.

(3) “Eligible paint horse sire” means a paint horse, thoroughbred, or quarter horse sire of a registered paint horse foal, where the sire was continuously present in this state from February 1 to July 15, inclusive, of the calendar year in which the qualifying race was conducted, as well as from February 1 to July 15, inclusive, of the following calendar year. If a sire dies in this state and stood his last seasons at stud in this state, he shall thereafter continue to be considered an eligible paint horse sire. Notwithstanding any other provision of law, a paint horse stallion shall be considered an eligible paint horse sire only if its owner has verified the stallion’s eligibility with the official registering agency for stallion awards on or before February 1 of the calendar year immediately following the calendar year for which the awards are being distributed.

(4) “Official registering agency” means the Pacific Coast Quarter Horse Racing Association.

(5) “Owner” means the person who is registered with the paymaster of purses on the date the qualifying race was conducted as the owner of the California-bred paint horse earning purse money in that race.

(6) “Qualifying race” means all paint horse only races in this state.

(7) “Stallion owner” means the person who is the owner of the eligible paint horse sire as of December 31 of the calendar year in which that sire’s foals had eligible earnings or the person who owned the eligible paint horse sire on the date that the sire died.
(b) Any association conducting a race meeting that includes paint horse racing shall deposit with the official registering agency 0.2 of 1 percent of the total amount handled ontrack, and 0.4 of 1 percent of the total amount handled offtrack, in daily conventional and exotic parimutuel pools and a sum equal to 25 percent of those funds specified for purses in Sections 19612.1, 19612.2, 19614.2, 19616, and 19616.1 and the sums specified in Sections 19567 and 19617.5, resulting from paint horse racing. The deposits shall be made at the following intervals:

1. For any meeting of 20 racing days or less, the requisite deposit shall be made not later than seven days immediately following the last day of that meeting.

2. For any meeting of more than 20 racing days, the initial deposit shall be made not later than 27 racing days after the commencement of that meeting and every 20 racing days thereafter, with a final deposit made not later than seven days following the last day of that meeting. The initial deposit for that meeting shall be based upon the applicable amount handled during the first 20 racing days of the meeting, and deposits thereafter shall be based upon the applicable amount handled during the ensuing periods of 20 racing days, with the last deposit being based upon the applicable amount handled from the end of the last 20-racing-day period for which a deposit has been made to the end of the meeting.

(c) After deducting a sum up to, but not to exceed, 10 percent of the total deposits made pursuant to subdivision (b) and the total deposits made pursuant to other provisions of this chapter, including Sections 19612.1, 19612.2, 19614.2, 19616, and 19616.1, to compensate the official registering agency for its administrative costs, the official registering agency shall distribute annually the balance of the deposits in the following manner:

1. Sixty percent to the breeder fund from which breeder premiums are to be paid.
2. Twenty-five percent to the owner fund from which owners’ premiums are to be paid.
3. Fifteen percent to the stallion fund from which stallion awards are to be paid.

(d) The official registering agency shall make the following payments to the breeder, owner, and stallion owner to encourage agriculture and the breeding of high quality horses in this state:

1. The breeder shall be paid a sum based on a prorated share, but not less than 10 percent, of first and second place earnings from qualified races by a California-bred paint horse. If the sum paid to the breeder is less than 10 percent of the purse paid for a first or second place finish in a qualifying race, the owners’ award and stallion award pools shall respectively contribute 62.5 percent and 37.5 percent of the moneys
necessary to the breeder premium pool to raise the breeder premium to 10 percent minimum. In calculating the 10 percent breeder premium, the maximum purse considered earned in any qualifying race within this state is two hundred thousand dollars ($200,000) for a first place finish, and eighty thousand dollars ($80,000) for a second place finish.

(2) The owner shall be paid an owners’ award, a sum based on a prorated share of first and second place earnings from qualified races by a California-bred paint horse.

(3) The stallion owner shall be paid a stallion award, a sum based on a prorated share of first and second place earnings from qualified races by a California-bred paint horse. Stallion awards shall not be made to the owner of a sire that has been out of the state for breeding purposes during the calendar year.

(4) The breeder premium and owners’ and stallion awards shall be paid not later than March 31 of the calendar year immediately following the calendar year for which the awards or premiums were earned. Any payments for awards or premiums that are uncashed on December 31 of the year issued shall accrue to the following year for distribution on an equal basis.

(e) The amount remaining for distribution under this section, if any, after the payments are made under subdivision (d) shall be used for the payment of paint horse breeders premiums and owners’ and stallion awards on a prorated percentage based on the win and second place shares of the purse exclusive of all purse money not derived from the parimutuel pools, to the breeders, owners, and owners of sires of paint horses who have been officially placed first or second in one or more qualifying races.

(f) If there are insufficient funds to make all of the distributions in this section, there shall be no assessments made against any association to fund the deficiencies.

SEC. 3. Section 19617.5 of the Business and Professions Code is amended to read:

19617.5. (a) Any association conducting a quarter horse or harness racing meeting shall pay the sums required to be paid by Section 19567 out of the amounts deducted from the parimutuel pool for license fees, commissions, and purses in the same proportion as the distribution of the license fees, commissions, and purses.

Those sums deducted for quarter horse meetings shall be deposited with the official registering agency pursuant to subdivision (b) of Section 19617.7 and shall thereafter be distributed in accordance with subdivisions (c), (d), and (e) of Section 19617.7.

(b) Notwithstanding subdivision (a), any association conducting a fair racing meeting other than a harness meeting or conducting a mixed breed meeting shall deduct an additional 0.34 of 1 percent of the total
amount handled in its daily conventional and exotic parimutuel pools for all races for payment of breeder and stallion awards provided for in this chapter. Following the close of the meeting, the respective official registering agency or officially recognized horsemen’s organization shall distribute the amounts so deducted as follows:

(1) With respect to thoroughbred races, the amounts deducted shall be paid as breeder awards, owners’ premiums, and stallion awards as provided in Section 19617.2.

(2) With respect to quarter horse races, the amounts deducted shall be paid as breeder premiums, and owners’ and stallion awards, as provided in Section 19617.7.

(3) With respect to Arabian races, the amounts deducted shall be paid as breeder premiums, and owners’ and stallion awards as provided in Section 19617.8.

(4) With respect to Appaloosa races, the amounts deducted shall be paid as breeder premiums, and owners’ and stallion awards, as provided in Section 19617.9.

(5) With respect to paint races, the amounts deducted shall be paid as breeder and owners’ premiums, and stallion awards, as provided in Section 19617.3.

CHAPTER 283

An act to amend Sections 1.5, 7, 8, 9, 12.5, 13, 13.5, 14, 15, 17, and 21 of, and to repeal Sections 18 and 31, of, the Napa County Flood Control and Water Conservation District Act (Chapter 1449 of the Statutes of 1951), relating to water.

[Approved by Governor August 26, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 1.5 of the Napa County Flood Control and Water Conservation District Act (Chapter 1449 of the Statutes of 1951) is amended to read:

Sec. 1.5. Unless the context otherwise requires, the definitions in this section govern the construction of the act.

(a) “Act” means the Napa County Flood Control and Water Conservation District Act.

(b) “Acts” means the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Division 12 (commencing
with Section 10000) of the Streets and Highways Code), and the Improvement Bond Act of 1915 (commencing with Section 8500) of the Streets and Highways Code).

(c) "Assessment" or "special assessment" means a non-ad valorem special benefit assessment on property located within a zone in the district, determined in accordance with Section 13.5 or any provision of the acts.

(d) "Board" means the governing board of the district.

(e) "Board of Supervisors" means the Napa County Board of Supervisors.

(f) "Bond" or "bonds" means bonds issued by the district whether in accordance with the procedures set forth in any of the acts or Section 14.

(g) "Charge" or "fee" means an amount charged by the district for rendering services or providing goods to an individual person or entity which are fixed pursuant to subdivision (d) of Section 13.

(h) "District" means the Napa County Flood Control and Water Conservation District.

(i) "Project" means any activity, with or without the construction of physical structures, works, or improvements, that is within the powers and in furtherance of the objects and purposes of the district under this act and is approved pursuant to Section 12.

(j) "Zone" or "participating zone" means an area within the district designated by the board in accordance with Section 3 and within that area the board may institute and carry out projects of special benefit to the landowners and residents of the zone, alone, or in conjunction with, other zones.

(k) "Zone project" means a project instituted and carried out for the special benefit of a single zone or two or more participating zones.

SEC. 2. Section 7 of the Napa County Flood Control and Water Conservation District Act (Chapter 1449 of the Statutes of 1951) is amended to read:

Sec. 7. (a) (1) The board shall be composed of 11 directors, as follows:

(A) Five directors shall be the members of the Board of Supervisors, serving ex officio, and having two votes each, except that the Board of Supervisors may appoint two members of the public residing within the district to serve as first and second floating alternates, respectively. The alternates shall act as directors if one or two members, as applicable, of the Board of Supervisors is absent from the board for any reason.

(B) One director shall be the mayor of the City of Napa, serving ex officio, and having two votes, except that the member of the Napa City Council designated by that council to serve as vice mayor or mayor pro
tempore shall act as director if the mayor is absent from the board for any reason.

(C) Four directors shall be the mayors of the Cities of Calistoga, St. Helena, and American Canyon, and the mayor of the Town of Yountville, serving ex officio, and having one vote each, except that the member of that respective city or town council designated by that council to serve as vice mayor or mayor pro tempore shall act as director if the mayor of that city or town is absent from the board for any reason.

(D) One director shall be a member of the City Council of the City of Napa, appointed annually by the council, and having one vote, except that the member of that council designated by that council to serve as alternate director shall act as director if the member appointed as director pursuant to this subparagraph is absent from the board for any reason.

(2) (A) A quorum for holding any meeting of the board shall be comprised of at least a majority of the directors and a majority of the total votes.

(B) The approval of an action of the board shall be determined by reference to the number of votes, and not the number of directors voting.

(3) Each director shall serve without additional compensation, but, with the approval of the board, may be reimbursed for actual expenses incurred in the performance of duties undertaken pursuant to this act.

(b) Except as otherwise provided by resolution of the board or this act, all ordinances, resolutions, and other legislative acts of the district shall be adopted by the board and certified to, recorded and published, in the same manner as are ordinances, resolutions, or other legislative acts for the County of Napa.

(c) Except as otherwise provided by resolution of the board, the budget for the district shall be prepared, presented, and approved by the board in accordance with those procedures applicable to the budget for the County of Napa, except that at least 14 votes are required to approve or modify the budget.

SEC. 3. Section 8 of the Napa County Flood Control and Water Conservation District Act (Chapter 1449 of the Statutes of 1951) is amended to read:

Sec. 8. The county administrator or county executive officer, county counsel, county surveyor, county assessor, county treasurer-tax collector, county auditor-controller, and clerk of the board of supervisors of the County of Napa, and all their deputies and employees, and other officers of Napa County, and their deputies and employees, shall be ex officio officers, deputies, and employees respectively of the district. Those officials shall perform, unless otherwise provided by the board, the same various duties for the district as for Napa County, in order to carry out this act. However, where the county surveyor is a registered civil engineer and is employed by the board to supervise the engineering
work of the district, the board may provide for compensation for his or her services pursuant to this act, payable from the funds of the district, in addition to his or her salary as county surveyor of Napa County.

SEC. 4. Section 9 of the Napa County Flood Control and Water Conservation District Act (Chapter 1449 of the Statutes of 1951) is amended to read:

Sec. 9. (a) The board may make and enforce all rules and regulations necessary for the administration and government of the district. The board may appoint and employ all superintendents, engineers, attorneys, property and purchasing agents, and other employees, agents, and independent contractors determined by the board to be necessary to operate, maintain, and properly look after the performance of any project provided for in this act, and perform all other acts necessary or proper to accomplish the purposes of this act.

(b) The board, in its discretion and in accordance with the bylaws adopted by resolution of the board, may appoint a chairperson, a secretary, and those other officers, employees, and agents of the board determined by the board to be necessary for its governance. The officers, agents, and employees so appointed or employed shall hold their respective offices or positions at the pleasure of the board, except when a specific term of office is prescribed in the bylaws adopted by resolution of the board.

(c) The board may authorize any purchasing agent employed pursuant to subdivision (a) to exercise any of the powers granted to the district pursuant to paragraph (4) or (5) of Section 5, subject to the bylaws of the board.

SEC. 5. Section 12.5 of the Napa County Flood Control and Water Conservation District Act (Chapter 1449 of the Statutes of 1951) is amended to read:

Sec. 12.5. (a) Whenever the board initiates a project for single zone or a joint project for two or more zones, the board may appoint, for each zone, at the time of the adoption of its resolution of intent, an advisory committee of three persons who are property owners residing in the zone for which they are appointed, to represent before the board the residents and property owners of that zone. If the project involves property located within the jurisdiction of a city within the district, any advisory committee appointed pursuant to this section shall include at least one representative from the city appointed by the governing board of the city unless after notice to the city, the governing board of the city declines to be so represented.

(b) Vacancies in any advisory committee appointed pursuant to this section shall be filled by appointment by the board or, in the case of city representatives, by the city. The board shall comply with the requirements of Chapter 11 (commencing with Section 54970) of Part
1 of Division 2 of Title 5, of the Government Code in connection with appointments to the advisory committees.

(c) An advisory committee appointed pursuant to this section shall cease to exist if the zone project is not approved by the board, if the project is disapproved by the qualified electors of the zone, or if all zones involved with the project are dissolved in accordance with Section 37.

SEC. 6. Section 13 of the Napa County Flood Control and Water Conservation District Act (Chapter 1449 of the Statutes of 1951) is amended to read:

Sec. 13. The board shall have all of the following powers, in any year:

(a) Subject to Article XIII A and Article XIII C of the California Constitution, to levy special taxes pursuant to Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code, in each or any of the zones and participating zones to pay the cost and expenses of carrying out, constructing, maintaining, operating, extending, repairing or otherwise improving, carrying out, or completing any project established or to be established within or on behalf of the respective zones.

(b) Subject to Article XIII A and Article XIII C of the California Constitution, if as part of cooperation with any of the governmental bodies, as authorized in paragraph (7) of Section 5, a contract is entered into with any governmental body for the purposes set forth in that paragraph by the terms of which a project or any portion thereof is agreed to be performed by any governmental body in any specified zone or participating zones for the particular benefit thereof and in the contract it is agreed that the district is to pay the governmental body a sum of money for the performance of the project by the governmental body, the board may levy and collect a special tax pursuant to Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code, including a special tax upon the property in the zone or participating zones to raise funds to enable the district to make the payment, in addition to any other taxes or assessments authorized by this act.

(c) (1) Subject to Article XIII D of the California Constitution, to levy assessments pursuant to Section 53735 of the Government Code, upon all property in each or any zones, according to the benefits derived or to be derived by the specific properties assessed, to pay the cost and expenses of a project or projects carrying out any of the objects or purposes of this act of particular benefit to the zone or zones.

(2) For purposes of this subdivision, all of the following apply:

(A) The particular benefit conferred by drainage or flood control projects, including the maintenance thereof on the property so assessed as compared to all property within the district may be determined, in the
discretion of the board in regard to each project and affected zone, by any reasonable method including, but not limited to, the proportionate stormwater runoff from the assessed property in light of the actual use and state of improvement of the property at the time of the assessment. However, no assessment based solely on proportionate stormwater runoff shall be levied on any property which exists and is used only as unimproved open space. If the project provides protection against flooding in a floodway or floodplain designated in a general or specific plan of the County of Napa or any city therein or a floodplain area or flood-risk zone established by the Secretary of Housing and Urban Development of the United States pursuant to Section 4101, et seq. of Title 42 of the United States Code, the fact that a lot or parcel of property is located within the floodway, floodplain, or flood-risk area shall be conclusive evidence that it will derive special benefit from the project as compared to properties in participating zones which are not located in those areas. Assessments based on the special benefit may be levied on lots and parcels of property in the specially benefited zone, in addition to assessments determined on the basis of proportionate stormwater runoff that may be levied in each of the participating zones.

(B) (i) The power of the board to levy assessments under this subdivision expressly includes, but is not limited to, the power to levy assessments in accordance with the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code) and the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code) and to issue bonds under the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code) and the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code). Those acts, or any of them, may be used in the discretion of the board to generate revenue to pay for the costs, including financing and interest costs, of any project under this act, and for the issuance of bonds to pay for the costs of such project.

(ii) Division 4 (commencing with Section 2800) and Division 4.5 (commencing with Section 3100) of the Streets and Highways Code do not apply to proceedings taken by the district under this subparagraph, except that Division 4.5 may be applied to any proceedings in the discretion of the board.

(iii) Any diagram prepared for purposes of any action taken under the acts described in this subparagraph may refer to the county assessor’s maps for a detailed description of the lines and dimensions of any lots or parcels, in which case, those maps shall govern for all details concerning the lines and dimensions of such lots or parcels.
(C) Assessments levied to pay the annual costs of nonbonded obligations of the district for specific zone projects or for maintenance of joint projects whose construction was funded by bonds issued by another participating governmental entity shall be levied only in accordance with Section 13.5.

(d) Subject to Article XIII D of the California Constitution, to fix by resolution and to collect fees or charges for any services that the district is authorized to provide under this act that specifically benefit the person, entity, or property charged. These services include, but are not limited to, investigations or studies conducted in connection with the processing by any public entity of a public or private development project or land division, or for copies of any public records. However, the fees or charges shall not exceed the reasonable cost to the district of providing the service and the service shall be provided by the district either upon request by the person, entity, or property owner charged or shall be provided to, and at the request of, a public entity, other than the district, for use in connection with the evaluation by that public entity of a request for development or other entitlement for use of land that has been made by the person, entity, or property owner that is charged the fee or charge.

(e) All special taxes and assessments shall be levied and collected together with, and not separately from taxes for county purposes, and the revenues derived from the special taxes or assessments shall be paid into the county treasury to the credit of the district, or the respective zones thereof, and the board shall have the power to control and order the expenditure thereof for those purposes. However, no revenues, or portions thereof, derived in any of the several zones from the special taxes or assessments shall be expended for projects located in, or conferring benefit upon, any other zone, except in the case of joint projects, or for projects authorized or established outside the zone, or zones, but for the benefit thereof.

SEC. 7. Section 13.5 of the Napa County Flood Control and Water Conservation District Act (Chapter 1449 of the Statutes of 1951) is amended to read:

Sec. 13.5. (a) All assessments levied to fund the nonbonded portion of any project that has been approved for a zone or participating zones in accordance with Section 12 shall be levied annually in accordance with the following procedures, if the assessment and methodology were approved prior to July 1, 1997:

(1) For each fiscal year in which an assessment is to be imposed under this section, the board shall first cause a written report to be prepared in compliance with Section 10 and filed with the secretary of the district for submission to the board for approval.
(2) Upon receipt, the secretary of the district shall cause notice of the filing of the report and of a time, date, and place of hearing thereon to be published pursuant to Section 6066 of the Government Code, posted in at least three public places within the affected zones and participating zones, and mailed or otherwise delivered to any city located within or partially within the zones and participating zones.

(3) Following the public hearing on the report, the board shall approve, approve with modifications, or reject the report. If the report is rejected, the board may, in its discretion, abandon the assessment process for that fiscal year or may return the report to the engineer or district staff for further work.

(4) After approval of the report, either as filed or as modified, the board shall adopt a resolution of intention to levy assessments under this section. The resolution of intention shall include all of the following:

(A) Declare the intention of the board to levy and collect assessments within the designated zones for the fiscal year therein stated, except that it shall not impose an assessment upon a federal or state governmental agency or another local agency except with the consent of that agency.

(B) Generally describe the project. If the project was previously approved by the board, existing components shall be described.

(C) Refer to the affected zone or participating zones by their distinctive designations and indicate the general location of such zone or zones.

(D) Refer to the report of the engineer prepared and filed under this section for a full and detailed description of the project, the location of the benefitted zones, and the proposed assessments on assessable property within the district.

(E) Set the date, time, and place for hearing by the board on the levy of the proposed assessments and, if the assessments are to be increased from the previous year. Also set the date, time, and place for a public meeting to be held on the proposed assessments prior to the public hearing.

(F) If the assessment is for an existing project, state whether the assessment will be increased from the previous year.

(5) Notice of the hearing on the levy of the assessments shall include a copy of the resolution of intention and shall indicate the right of registered voters residing within and landowners owning assessable property within the affected zones to file written protests prior to or at the hearing. The notice shall be given as follows:

(A) If the assessments are to be levied in the same or lesser amounts than in any previous year, the secretary of the district shall give notice of the hearing by causing the resolution of intention to be published pursuant to Section 6061 of the Government Code.
(B) If assessments are to be increased from the previous year, notice of the public meeting and public hearing required by Section 54954.6 of the Government Code shall be mailed as provided in subdivision (c) of that section.

(C) If the projects for which the assessments are to be levied or any of the assessable property is located within a city or town within the district, notice of the public hearing and, if applicable, the public meeting held under subdivision (c) of Section 54954.6 of the Government Code, shall also be mailed or personally delivered to the chief administrative officer of the city at least 10 days prior to the public hearing.

(6) (A) If, at the conclusion of the public hearing, the board finds that written protests filed at or before the time of the hearing are signed by more than 25 percent of the registered voters residing within the affected zone or the owners of more than 25 percent of the area of land subject to assessment located in each affected zone, based upon those acreages shown on the latest county assessment records, and the protests have not been withdrawn prior to the time of closure of the public hearing so as to reduce the protest in each zone below that percentage, then the board shall either abandon the proceedings, or by duly adopted resolution, submit the proposed assessments to the qualified electors in the zone from which the protest was received and not so reduced. The board shall not proceed further with the proceedings as to that zone unless a majority of the votes cast at the election in the zone are in favor of the levy of the assessments. The election shall be held in accordance with the Uniform District Election Law, Part 4 (commencing with Section 10500) of Division 10 of the Elections Code.

(B) The board may approve the assessment unless the board finds that written protests filed at or before the time of the hearing are signed by more than 25 percent of the registered voters residing within the affected zone, or the owners of more than 25 percent of the real property subject to assessment located in the affected zone, based upon those averages shown on the latest county assessment records, and those protests have not been withdrawn prior to the time of closure of the public hearing so as to reduce the protest in each zone below that percentage. If a protest is received and not withdrawn, the assessment shall be withdrawn. The board may, at its discretion, reduce the amount of the assessments or abandon the proceedings.

(7) If the board abandons the proceedings rather than call an election, or if the proposition fails passage, the board shall not initiate similar proceedings within a period of six months from the date of adoption of the resolution ordering abandonment or the date of the election.

(8) If the proposed levy is not abandoned by the board voluntarily, or, as a result of receipt of a qualified 25 percent protest under paragraph (6),
or, if the matter is set for election, by receipt of less than majority approval by the voters, the board shall, by resolution adopted following the public hearing or, if the proposition is approved at an election, by resolution adopted by the board upon certification of the election results, approve, impose, and levy the assessments for the next fiscal year.

(9) Following the approval of the resolution levying the assessments, the board may order any particular assessment levied under this section to be corrected, canceled, or refunded if the assessment was imposed in error and the nature of the error could not have been reasonably ascertained by the board or the property owner prior to the action of the board imposing the assessment. Application for correction, cancellation, or refund under this paragraph shall be made in accordance with those procedures for appeal prescribed by resolution of the board, except that the time period prescribed by that resolution for filing a notice of appeal shall commence to run no earlier than the first date when the property owner reasonably could have known that the assessment was imposed in error.

(b) The imposition of an assessment pursuant to a methodology approved on or after July 1, 1997, for the purpose of funding a project pursuant to Section 12 shall be approved in accordance with Article XIII D of the California Constitution, and Section 53753 of the Government Code.

SEC. 8. Section 14 of the Napa County Flood Control and Water Conservation District Act (Chapter 1449 of the Statutes of 1951) is amended to read:

Sec. 14. (a) Whenever the board determines that a bonded indebtedness should be incurred to pay the cost of any project in any zone or zones, and the board does not choose to finance the project in accordance with the procedures set forth in any of the acts, the board may by resolution determine and declare the respective amounts of bonds necessary to be issued in each zone in order to raise the amount of money necessary for each project and the denomination and maximum rate of interest of the bonds. The board shall cause a copy of the resolution, duly certified by the clerk, to be filed for record in the office of the recorder of Napa County within five days after its issuance.

(b) After the filing for record of the certified copy of the resolution specified in subdivision (a), the board may call a special bond election in the zone or participating zones at which shall be submitted to the qualified electors of the zone or participating zones the question whether or not bonds shall be issued in the amount or amounts determined in the resolution and for the purpose or purposes therein stated. The bonds and the interest thereon shall be paid from revenue derived from taxes levied as provided in this act.
(c) The board shall call the special bond election by ordinance and submit to the qualified electors of the zone or participating zones the preparation of incurring a bonded debt in the zone or participating zones in the amount and for the purposes stated in the resolution and shall recite therein the objects and purposes for which the indebtedness is proposed to be incurred. It shall be sufficient to give a brief, general description of the objects and purposes and refer to the recorded copy of the resolution for particulars. The ordinance shall also state the estimated cost of the proposed project, the amount of the principal of the indebtedness to be incurred therefor, and the maximum rate of interest to be paid on the indebtedness, and shall fix the date on which the election shall be held and the form and contents of the ballot to be used. For the purposes of the election, the board shall in the ordinance establish special bond election precincts within the boundaries of each zone and participating zones and may form election precincts by consolidating the precincts established for general elections in the district to a number not exceeding six general precincts for each special bond election precinct, and shall designate a polling place and appoint one inspector, one judge, and one clerk for each of the special bond election precincts.

(d) In all particulars not recited in the ordinance, the bond election shall be held as nearly as practicable in accordance with the Uniformed District Election Law, Part 4 (commencing with Section 10500) of Division 10 of the Elections Code.

(e) The board shall cause a map or maps to be prepared generally describing the project and showing the location of the proposed project and area to be benefited thereby and shall cause the map to be posted in a prominent public place in the county seat of the County of Napa for public inspection for at least 30 days before the date fixed for the election.

(f) The ordinance calling for the bond election shall, prior to the date set for the election, be published pursuant to Section 6066 of the Government Code in a newspaper of general circulation circulated in each zone and participating zones affected. The last publication of the ordinance shall be at least 14 days before the election. If there is no newspaper, then the ordinance shall be posted in five public places designated by the board in each zone and participating zones for at least 30 days before the date fixed for the election.

(g) Any defect or irregularity in the proceedings prior to the calling of the special bond election shall not affect the validity of the bonds authorized by the election. Where a project affects a single zone only, if at the election two-thirds of the votes cast in the zone on the proposition of incurring a bonded indebtedness are in favor thereof, then bonds for the zone for the amounts stated in the proceedings shall be issued and sold as provided in this act. Where the incurring of a bonded
indebtedness by participating zones is to be determined at the election, no bonds for any of the participating zones shall be issued or sold unless two-thirds of the votes cast on the proposition in each participating zone are in favor of incurring a bonded indebtedness to be undertaken by the zone.

SEC. 9. Section 15 of the Napa County Flood Control and Water Conservation District Act (Chapter 1449 of the Statutes of 1951) is amended to read:

Sec. 15. (a) The board shall, subject to this act, prescribe by resolution the form of the bonds authorized under Section 14, including a designation of the zone or participating zones affected, and of the interest coupons attached thereto. The bonds shall be payable annually or semiannually at the discretion of the board each year on a day and date and at a place to be fixed by the board, and designated in the bonds, together with the interest on all sums unpaid on the date until the whole of the indebtedness shall have been paid.

(b) The board may divide the principal amount of any issue into two or more series and fix different dates for the bonds of each series. The bonds of one series may be made payable at different times from those of any other series. The maturity of each series shall comply with this section. The board may fix a date, not more than two years from the date of issuance, for the earliest maturity of each issue or series of bonds. The final maturity date shall not exceed 40 years from the time of incurring the indebtedness evidenced by each issue or series. The board may provide that any bond may be subject to call and redemption prior to maturity at those times and prices and upon other terms as the board may specify. If a bond is subject to call and redemption prior to maturity, that fact shall be stated in the bond.

(c) The bonds shall be issued in those denominations as the board may determine, except that no bonds shall be of a less denomination than one hundred dollars ($100) and shall be payable on the days and at the place fixed in the bonds and with interest at the rate specified in the bonds. The bonds shall be made payable annually or semiannually. The bonds shall be numbered consecutively and shall be signed by the chairperson of the board, and countersigned by the auditor of the district. The seal of the district shall be affixed to the bonds by the secretary of the district. The interest coupons of the bonds shall be numbered consecutively and signed by the auditor by his or her original, engraved, lithographed, or equivalent signature. In case any officer whose signatures or countersignatures appear on the bonds or coupons ceases to be an officer before the delivery of the bonds to the purchaser, the bonds, coupons, and signatures or countersignatures thereon shall, nevertheless, be valid and sufficient for all purposes the same as if the officer had remained in office until the delivery of the bonds.
SEC. 10. Section 17 of the Napa County Flood Control and Water Conservation District Act (Chapter 1449 of the Statutes of 1951) is amended to read:

Sec. 17. The bonds, when issued in accordance with the procedure set forth in Sections 14 and 15 and the interest thereon, shall be paid by revenue derived from special taxes or assessments, levied as provided in Section 13. When bonds are issued by the district in accordance with any of the provisions specified in subparagraph (B) of paragraph (2) of subdivision (c) of Section 13, payment of the principal and interest thereon shall be paid by revenue derived from assessments levied in accordance with those acts. No zone, nor the property therein, shall be liable for the share of bonded indebtedness of any other zone, nor shall any moneys derived from taxation or assessment in any of the several zones be used in payment of principal or interest or otherwise of the share of bonded indebtedness chargeable to any other zone.

SEC. 11. Section 18 of the Napa County Flood Control and Water Conservation District Act (Chapter 1449 of the Statutes of 1951) is repealed.

SEC. 12. Section 21 of the Napa County Flood Control and Water Conservation District Act (Chapter 1449 of the Statutes of 1951) is amended to read:

Sec. 21. The bonds of the district issued for any zone or zones thereof pursuant to this act, including any bonds issued by the district in accordance with the procedures set forth by those acts specified in subparagraph (B) of paragraph (2) of subdivision (c) of Section 13, shall be legal investments for all trust funds, and for the funds of all insurance companies, banks, both commercial and savings, and trust companies, and for the state school funds, and whenever any money or funds may be law now or hereafter enacted be invested in bonds of cities, cities and counties, counties, school districts, or municipalities in the state, the money or funds may be invested in the bonds of the district issued in accordance with this act, and whenever bonds of cities, cities and counties, counties, school districts, or municipalities may be any law now or hereafter enacted be used as security for the performance of any act, the bonds of the district may be so used.

SEC. 13. Section 31 of the Napa County Flood Control and Water Conservation District Act (Chapter 1449 of the Statutes of 1951) is repealed.

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 are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556

CHAPTER 284

An act to add Section 21107.9 to the Vehicle Code, relating to ordinances.

[Approved by Governor August 26, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 21107.9 is added to the Vehicle Code, to read:

21107.9. (a) Any city or county, or city and county, may, by ordinance or resolution, find and declare that there are privately owned and maintained roads within a mobilehome park, as defined in Section 18214 of the Health and Safety Code, or within a manufactured housing community, as defined in Section 18801 of the Health and Safety Code, within the city or county, or city and county, that are generally not held open for use by the public for vehicular travel. Upon enactment of the ordinance or resolution, the provisions of this code shall apply to the privately owned and maintained roads within a mobilehome park or manufactured housing community if appropriate signs are erected at the entrance or entrances to the mobilehome park or manufactured housing community of the size, shape, and color as to be readily legible during daylight hours from a distance of 100 feet, to the effect that the roads within the park or community are subject to the provisions of this code. The city or county, or city and county, may impose reasonable conditions and may authorize the owners of the mobilehome park or manufactured housing community to erect traffic signs, markings, or devices which conform to the uniform standards and specifications adopted by the Department of Transportation.

(b) No ordinance or resolution shall be enacted unless there is first filed with the city or county a petition requested by the owner or owners of any privately owned and maintained roads within a mobilehome park or manufactured housing community, who are responsible for maintaining the roads.

(c) No ordinance or resolution shall be enacted without a public hearing thereon and 10 days’ prior written notice to all owners of the roads within a mobilehome park or manufactured housing community proposed to be subject to the ordinance or resolution. At least seven days prior to the public hearing, the owner or manager of the mobilehome
park or manufactured housing community shall post a written notice about the hearing in a conspicuous area in the park or community clubhouse, or if no clubhouse exists, in a conspicuous public place in the park or community.

(d) For purposes of this section, the prima facie speed limit on any road within a mobilehome park or manufactured housing community shall be 15 miles per hour. This section does not preclude a mobilehome park or manufactured housing community from requesting a higher or lower speed limit if an engineering and traffic survey has been conducted within the community supporting that request.

(e) The department is not required to provide patrol or enforce any provision of this code on any privately owned and maintained road within a mobilehome park or manufactured housing community, except those provisions applicable to private property other than by action under this section.

CHAPTER 285

An act to add Section 1940.6 to the Civil Code, relating to landlords.

[Approved by Governor August 26, 2002. Filed with Secretary of State August 26, 2002.]

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

SECTION 1. Section 1940.6 is added to the Civil Code, to read:

1940.6. (a) The owner of a residential dwelling unit or the owner’s agent who applies to any public agency for a permit to demolish that residential dwelling unit shall give written notice of that fact to:

(1) A prospective tenant prior to the occurrence of any of the following actions by the owner or the owner’s agent:

(A) Entering into a rental agreement with a prospective tenant.

(B) Requiring or accepting payment from the prospective tenant for an application screening fee, as provided in Section 1950.6.

(C) Requiring or accepting any other fees from a prospective tenant.

(D) Requiring or accepting any writings that would initiate a tenancy.

(2) A current tenant, including a tenant who has entered into a rental agreement but has not yet taken possession of the dwelling unit, prior to applying to the public agency for the permit to demolish that residential dwelling unit.

(b) The notice shall include the earliest possible approximate date on which the owner expects the demolition to occur and the approximate date on which the owner will terminate the tenancy. However, in no case
may the demolition for which the owner or the owner’s agent has applied
occur prior to the earliest possible approximate date noticed.

(c) If a landlord fails to comply with subdivision (a) or (b), a tenant
may bring an action in a court of competent jurisdiction. The remedies
the court may order shall include, but are not limited to, the following:

(1) In the case of a prospective tenant who moved into a residential
dwelling unit and was not informed as required by subdivision (a) or (b),
the actual damages suffered, moving expenses, and a civil penalty not
to exceed two thousand five hundred dollars ($2,500) to be paid by
the landlord to the tenant.

(2) In the case of a current tenant who was not informed as required
by subdivision (a) or (b), the actual damages suffered, and a civil penalty
not to exceed two thousand five hundred dollars ($2,500) to be paid by
the landlord to the tenant.

(3) In any action brought pursuant to this section, the prevailing party
shall be entitled to reasonable attorney’s fees.

(d) The remedies available under this section are cumulative to other
remedies available under law.

(e) This section shall not be construed to preempt other laws
regarding landlord obligations or disclosures, including, but not limited
to, those arising pursuant to Chapter 12.75 (commencing with Section
7060) of Division 7 of Title 1 of the Government Code.

(f) For purposes of this section:

(1) “Residential dwelling unit” has the same meaning as that
contained in Section 1940.

(2) “Public agency” has the same meaning as that contained in
Section 21063 of the Public Resources Code.

CHAPTER  286

An act to add Section 2890.2 to the Public Utilities Code, relating to
telecommunications.

[Approved by Governor August 26, 2002. Filed with
Secretary of State August 26, 2002.]

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

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

(a) Commercial mobile radio service subscribers may currently be
unable to monitor their call time minutes and, as a result, they face higher
rates because they unknowingly exceed the number of minutes included
under their plans.
(b) Commercial mobile radio service subscribers need reasonably accurate information relative to their current service usage in order to enable them to better utilize their particular calling plans.

(c) Providing commercial mobile radio service subscribers with a reasonable estimate that includes a differentiation between the types of usage covered by their plans, such as “peak” versus “free” minutes, will enable subscribers to make informed decisions about their commercial mobile radio service.

(d) The Legislature intends to require the provision of reasonably available usage information by commercial mobile radio service providers by January 1, 2004.

(e) Technology exists to provide commercial mobile radio service subscribers with reasonably accurate information relative to their current service usage, and this type of information can be obtained through a variety of sources, including, but not limited to, cellular telephone providers, Internet Web sites, and traditional telephone customer service providers, such as 1-800 telephone numbers.

(f) The Legislature intends that reasonably available, current usage information be provided to all commercial mobile radio service subscribers, taking into consideration technical limitations that may affect reporting to a consumer, including, but not limited to, limitations on reporting “roaming” minutes incurred when a commercial mobile radio service subscriber is outside his or her plan coverage area.

SEC. 2. Section 2890.2 is added to the Public Utilities Code, to read:

2890.2. (a) No later than January 1, 2004, a provider of commercial mobile radio service, as defined in Section 2892, shall provide subscribers with a means by which a subscriber can obtain reasonably current and available information, as determined by the provider, on the subscriber’s calling plan or plans and service usage.

(b) Each provider of commercial mobile radio service shall inform subscribers at the time service is established of the availability of the information described in subdivision (a) and how it may be obtained.

(c) For purposes of this section, commercial mobile radio service shall not include any one-way paging service utilizing facilities that are licensed by the Federal Communications Commission, including, but not limited to, narrowband personal communications services described in Subpart D (commencing with Section 24.100) of Part 24 of Title 47 of the Code of Federal Regulations, as in effect on October 1, 2001.
An act to repeal Sections 43021 and 43033 of the Health and Safety Code, relating to air resources.

[Approved by Governor August 27, 2002. Filed with Secretary of State August 27, 2002.]

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

SECTION 1. Section 43021 of the Health and Safety Code is repealed.
SEC. 2. Section 43033 of the Health and Safety Code is repealed.

CHAPTER 288

An act to amend Section 2.6 of, and to add Section 2.7 to, the San Bernardino County Flood Control Act (Chapter 73 of the Statutes of 1939), relating to water.

[Approved by Governor August 27, 2002. Filed with Secretary of State August 27, 2002.]

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

SECTION 1. Section 2.6 of the San Bernardino County Flood Control Act (Chapter 73 of the Statutes of 1939) is amended to read:

Sec. 2.6. (a) The district may borrow money and incur indebtedness pursuant to this section to meet the short-term needs of any zone by action of the board of supervisors and without the necessity of calling and holding an election in the district.

(b) The indebtedness may be incurred solely for the purpose of providing for a cashflow to handle temporary funding for local interest obligations for federal flood control projects or to provide a cashflow for other zone operations prior to receipt of annual tax revenues or other revenues.

(c) (1) Any negotiable promissory notes shall be issued after the adoption, by a four-fifths vote of all the members of the board, of a resolution setting forth the form of the notes, the maturity date or dates thereof, and the manner of execution thereof.

(2) Any negotiable promissory notes shall bear interest at a rate not exceeding the rate permitted under Article 7 (commencing with Section 53530) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code. The notes shall be general obligations of the zone payable from...
revenues and taxes, unless paid from other available funds of the zone, but in no event to exceed the maximum tax limitations as provided for in this act, in the same manner as bonds of the zone; and provided further, that the maturity shall not be later than five years from the date thereof and that the total aggregate amount of the notes outstanding at any one time for all zones within the district does not exceed the sum of eight million dollars ($8,000,000).

SEC. 2. Section 2.7 is added to the San Bernardino County Flood Control Act (Chapter 73 of the Statutes of 1939), to read:

Sec. 2.7. (a) In addition to the notes issued pursuant to Section 2.6, the district may issue limited obligation notes after the adoption, by a four-fifths vote of all the members of the board, of a resolution reciting each of the following:

(1) That the resolution is being adopted pursuant to this subdivision.
(2) The purposes of incurring the indebtedness.
(3) The estimated amount of the indebtedness.
(4) The maximum amount of notes to be issued, and the source of revenue or revenues to be used to secure the limited obligation notes.
(5) The maturity date of the limited obligation notes.
(6) The form of the limited obligation notes.
(7) The manner of execution of the limited obligation notes.

(b) The resolution may also provide for any of the following matters:

(1) Insurance for the limited obligation notes.
(2) Procedures in the event of default, terms upon which the limited obligation notes may be declared due before maturity, and the terms upon which that declaration may be waived.
(3) The rights, liabilities, powers, and duties arising upon the district’s breach of any agreement with regard to the limited obligation notes.
(4) The terms upon which the holders of the limited obligation notes may enforce agreements authorized by this section.
(5) A procedure for amending or abrogating the terms of the resolution with the consent of the holders of a specified percentage of the limited obligation notes. If the resolution contains this procedure, the resolution shall specifically state the effect of amendment upon the rights of the holders of all of the limited obligation notes.
(6) The manner in which the holders of the limited obligation notes may take action.
(7) Other actions necessary or desirable to secure the limited obligation notes or tending to make the notes more marketable.

(c) The limited obligation notes shall bear interest at a rate not exceeding the rate permitted under Article 7 (commencing with Section 53530) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code.
(d) The limited obligation notes may not mature later than 10 years after the date of the issuance of the notes, and the total amount of the limited obligation notes outstanding at any one time for all zones within the district may not exceed the sum of twelve million dollars ($12,000,000).

(e) The agreement between the district and the purchasers of the limited obligation notes shall state that the notes are limited obligation notes payable solely from specified revenue of the district. The pledged revenue shall be sufficient to pay the following amounts annually, as they become due and payable:

1. The interest and principal on the notes.
2. All payments required for compliance with the resolution authorizing issuance of the notes or agreements with the purchasers of the notes.
3. All payments to meet any other obligations of the district that are charges, liens, or encumbrances on the pledged revenue.

(f) The limited obligation notes are special obligations of the district, and shall be a charge against, and secured by a lien upon, and payable, as to the principal thereof and interest thereon, from the pledged revenue. If the revenue described in the authorizing resolution is insufficient for the payment of interest and principal on the notes, the district may make payments from any other funds or revenues that may be applied to their payment. The revenue and any interest earned on the revenue constitute a trust fund for the security and payment of the interest on and principal of the notes.

(g) So long as any limited obligation notes or interest thereon are unpaid following their maturity, the pledged revenue and interest thereon may not be used for any other purpose.

(h) If the interest and principal on the limited obligation notes and all charges to protect them are paid when due, the district may expend the pledged revenue for other purposes.

(i) Limited obligation notes of the same issue shall be equally secured.

(j) The general fund of the district is not liable for the payment of the principal or the interest on the limited obligation notes.

(k) The holders of the limited obligation notes may not compel the exercise of the taxing power by the district, other than the revenue pledged, or the forfeiture of the district’s property.

(l) Every agreement shall recite in substance that the principal of, and interest on, the limited obligation notes are payable solely from the revenue pledged to the payment of the principal and interest and that the
district is not obligated to pay the principal or interest except from the pledged revenue.

CHAPTER 289

An act relating to retirement.

[Approved by Governor August 27, 2002. Filed with Secretary of State August 27, 2002.]

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

SECTION 1. It is the intent of the Legislature in enacting this act to assure that all qualified Californians are eligible to participate as a board member of a pension fund. To deny elected officials the opportunity to serve simply because of potential incompatibility could result in the loss of valuable expertise and public experience. It is the intent of the Legislature that each nominee for a position as a member of a retirement board be evaluated on the basis of his or her individual qualifications. It is also the intent of the Legislature that pension funds routinely monitor issues where questions regarding incompatibility may be present and that funds should seek appropriate legal counsel on these matters, which would cure any potential clash between the two offices as implied by the doctrine of incompatibility of public offices.

CHAPTER 290

An act to add Chapter 1.77 (commencing with Section 5097.993) to Division 5 of the Public Resources Code, relating to parks and recreation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 27, 2002. Filed with Secretary of State August 27, 2002.]

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

SECTION 1. The Legislature finds and declares all of the following:
(a) Studies conducted by the Department of Parks and Recreation in 1960 determined a pressing need for a modern and expanded California State Indian Museum.
(b) The department created a task force in 1975 to consider an alternative to the California State Indian Museum as it then existed.
(c) In 1977 the department identified a site and drafted an architectural plan for the proposed California State Indian Museum.

(d) In 1984 the department considered four potential sites for the expanded California State Indian Museum.

(e) A report commissioned by the department in 1991 concluded that a new California State Indian Museum should be created within the Resources Agency for the purpose of acquiring, recording, preserving, protecting, studying, developing, interpreting and exhibiting information of outstanding importance on the history, cultural heritage and contemporary lifestyles of California Indians.

(f) The 1991 report concluded that participation by California Indians in every aspect of the California State Indian Museum should be encouraged and actively sought.

(g) In 1992, the department completed a feasibility study for the creation of a new California State Indian Museum.

(h) The existing California Indian Museum is too small for effective interpretation of the diverse populations of California Indians or to adequately display the tens of thousands of artifacts currently in storage.

(i) There is an urgent need for the creation of a modern and expanded California Indian Cultural Center and Museum.

SEC. 2. Chapter 1.77 (commencing with Section 5097.993) is added to Division 5 of the Public Resources Code, to read:

Chapter 1.77. CALIFORNIA INDIAN CULTURAL CENTER AND MUSEUM TASK FORCE

5097.993. For the purposes of this chapter, the following terms have the following meanings:

(a) “Cultural center” means the California Indian Cultural Center and Museum.

(b) “Task force” means the California Indian Cultural Center and Museum Task Force as described in Section 5097.994.

5097.994. (a) The California Indian Cultural Center and Museum Task Force is hereby created within the department. The task force shall be convened by the department on or before February 1, 2003.

(b) The task force shall consist of 9 voting members, appointed as follows:

(1) Three members from separate California Indian tribes, appointed by the director. Each member shall reside in California at the time of appointment. The director shall consider geographic and cultural diversity when making the appointments.

(2) Two members from California Indian tribes shall be appointed by the Executive Secretary of the Native American Heritage Commission. In making these appointments, the executive secretary shall select those
individuals who have demonstrated an expertise in any of the following areas:

(A) American Indian education.
(B) California Indian arts, culture, and language.
(C) California Indian history.

(3) One member shall be the director or his or her designee. This member shall serve as the executive secretary of the task force and coordinate work product and assistance with the department.

(4) One member shall be the Executive Secretary of the Native American Heritage Commission or his or her designee.

(5) One member shall be the State Librarian or his or her designee.

(6) One member shall be the Secretary of the Resources Agency or his or her designee.

(c) The task force shall elect a chairperson and determine the term of office of the chairperson by majority vote.

(d) Members of the task force may not receive any state compensation for their services or be reimbursed for travel or per diem expenses.

(e) The duties and responsibilities of the task force shall include, but shall not be limited to, all of the following:

(1) Make recommendations to the department on the potential siting of the cultural center. Every effort shall be made to site the cultural center within proximity of other cultural and historical facilities. The siting recommendations shall also take into consideration the public accessibility of the facility. A task force report on the potential sites for the cultural center shall be delivered to the department no later than one year after the task force is convened.

(2) Advise and make recommendations to the department on the cultural concepts and designs of the cultural center.

(3) Establish and maintain communication between tribes, museums, and local, state, and federal agencies.

(4) Request and utilize the advice and services of tribes, museums, and local, state, and federal agencies as needed to carry out the objectives of this chapter.

(5) Develop and recommend to the department a governing structure for the ongoing operation of the cultural center.

(6) Prepare and submit to the Legislature an annual report detailing the task force’s activities and progress towards establishing the cultural center.

(f) The task force’s responsibilities shall be complete and its duties discharged when the cultural center is completed and the department has adopted a governing structure for the completed cultural center. The director may terminate the task force prior to that time, but only if the director obtains approval from two-thirds of the task force members.
(g) The department shall make every effort to encourage nonstate participation and partnerships in the development and construction of the cultural center.

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 address the urgent need for an expanded museum to adequately display the thousands of California Indian artifacts of historical and educational significance that are currently in storage, it is necessary that this act take effect immediately.

CHAPTER 291

An act to amend Section 71212 of, and to repeal Section 4121 of, the Public Resources Code, and to amend Section 13396.9 of the Water Code, relating to resources.

[Approved by Governor August 27, 2002. Filed with Secretary of State August 27, 2002.]

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

SECTION 1. Notwithstanding any other provision of law, the City of Goleta may convert to a different use up to 36 acres of the Santa Barbara Shores Park, which was partially acquired with state grant funds made available for various purposes related to the acquisition, development, enhancement, rehabilitation, protection, or restoration of park, wildlife, coastal, and natural lands in California pursuant to Division 5.8 (commencing with Section 5900) of the Public Resources Code, in exchange for approximately 135 acres known as the Ellwood Mesa, if all of the following conditions are met:

(a) The exchange is carried out in accordance with the Public Park Preservation Act of 1991 (Chapter 2.5 (commencing with Section 5400) of Division 5 of the Public Resources Code).

(b) Any contamination on the property to be acquired is adequately remediated, to the satisfaction of the Department of Toxic Substances Control.

(c) The City of Goleta submits to the Department of Parks and Recreation a copy of the recorded deed and the title for the acquired property.

SEC. 2. Section 4121 of the Public Resources Code is repealed.
SEC. 3. Section 71212 of the Public Resources Code is amended to read:

71212. On or before January 31, 2003, the State Lands Commission, in consultation with the State Water Resources Control Board, the Department of Fish and Game, and the United States Coast Guard, shall submit to the Legislature, and make available to the public, a report that includes, but is not limited to, all of the following:

(a) A summary of the information provided in the ballast water discharge report forms submitted to the State Lands Commission, including the volumes of ballast water exchanged, volumes discharged into state waters, types of ballast water treatment, and locations at which ballast water was loaded and discharged.

(b) Monitoring and inspection information collected by the State Lands Commission pursuant to this division, including a summary of compliance rates, categorized by geographic area and other groupings as information allows.

(c) An analysis of the monitoring and inspection information, including recommendations for actions to be undertaken to improve the effectiveness of the monitoring and inspection program.

(d) An evaluation of the effectiveness of the measures taken to reduce or eliminate the discharge of nonindigenous species from vessels, including recommendations regarding action that should be taken to improve the effectiveness of those measures.

(e) A summary of the research completed during the two-year period that precedes the release of the report, and ongoing research, on the release of nonindigenous species by vessels, including, but not limited to, the research described in Section 71213.

SEC. 4. Section 13396.9 of the Water Code is amended to read:

13396.9. (a) The California Coastal Commission and the Los Angeles Regional Water Quality Control Board shall establish and participate in the multiagency Los Angeles Basin Contaminated Sediments Task Force, in cooperation with all interested parties, including, but not limited to, the United States Environmental Protection Agency, the United States Army Corps of Engineers, the Port of Long Beach, and the Port of Los Angeles.

(b) (1) On or before January 1, 2005, the California Coastal Commission shall, based upon the recommendations of the task force, develop a long-term management plan for the dredging and disposal of contaminated sediments in the coastal waters adjacent to the County of Los Angeles. The plan shall include identifiable goals for the purpose of minimizing impacts to water quality, fish, and wildlife through the management of sediments. The plan shall include measures to identify environmentally preferable, practicable disposal alternatives, promote
multiuse disposal facilities and beneficial reuse, and support efforts for watershed management to control contaminants at their source.

(2) The California Coastal Commission and the Los Angeles Regional Water Quality Control Board shall seek to enter into an agreement with the United States Environmental Protection Agency and the United States Army Corps of Engineers for those federal agencies to participate in the preparation of the long-term management plan, and, on or before January 1, 1999, shall prepare and submit to the Legislature a report indicating the status of that agreement.

(c) The California Coastal Commission and the Los Angeles Regional Water Quality Control Board, in cooperation with the task force, shall conduct not less than one annual public workshop to review the status of the plan and to promote public participation.

CHAPTER  292

An act to amend Section 5091.20 of the Public Resources Code, relating to SNO-PARKS.

[Approved by Governor August 27, 2002. Filed with Secretary of State August 27, 2002.]

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

SECTION 1. Section 5091.20 of the Public Resources Code is amended to read:

5091.20. (a) The department shall print the permits required by this chapter and shall supervise the sale of the permits throughout the state.

(b) The department shall either distribute and sell the permits directly or contract with vendors according to rules and regulations adopted by the department. The authorized vendors shall be bonded in accordance with the rules and regulations and shall receive a stipulated commission for each permit sold.

(c) In situations where the department elects to contract with a vendor pursuant to subdivision (b), the department shall provide the permits to the vendor at no cost. The vendor may deduct his or her commission from the proceeds acquired from permit sales prior to remitting those proceeds to the department.
CHAPTER 293

An act to amend Section 782 of the Harbors and Navigation Code, relating to vessels.

[Approved by Governor August 27, 2002. Filed with Secretary of State August 27, 2002.]

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

SECTION 1. The Legislature hereby finds and declares both of the following:
(a) It is the intent of the Legislature in enacting this act to ensure that the state’s waterways are clean and safe, that boaters are complying with the current vessel discharge laws, that the vital privacy and property interests of individual boaters are protected, and that the boating public is provided with the ability to comply with environmental laws.
(b) It is also the intent of the Legislature that state and local peace officers be provided with information that will ensure that they are knowledgeable about the numerous types of marine sanitation devices that are installed aboard boats, and that the state strengthen its efforts to ensure that there are sufficient numbers of operational and available marine sanitation disposal facilities throughout the state.

SEC. 2. Section 782 of the Harbors and Navigation Code is amended to read:
782. (a) Excepting laws regulating the discharge of sewage into or upon the navigable waters of any lake, reservoir, or freshwater impoundment of this state, and notwithstanding Section 660, no vessel, as defined in subdivision (e) of Section 775.5, is subject to any other state or local government law, ordinance, or regulation with respect to the design, manufacture, installation, or use within any vessel of any marine sanitation device.
(b) Notwithstanding any other provision of law, nothing in this chapter precludes or restricts a city, county, or other public agency from adopting rules and regulations with respect to the discharge of sewage from vessels.
(c) State and local peace officers may enforce state laws relating to marine sanitation devices and may inspect vessels if there is reasonable cause to suspect noncompliance with those laws.
(d) A state or local peace officer who reasonably suspects that a vessel is discharging sewage in an area where the discharge is prohibited may board that vessel, if the owner or operator is aboard, for the purpose of
inspecting the marine sanitation device for proper operation and placing a dye tablet in the holding tank.

CHAPTER 294

An act to amend Section 12965 of the Government Code, relating to employment.

[Approved by Governor August 28, 2002. Filed with Secretary of State August 28, 2002.]

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

SECTION 1. Section 12965 of the Government Code is amended to read:

12965. (a) In the case of failure to eliminate an unlawful practice under this part through conference, conciliation, or persuasion, or in advance thereof if circumstances warrant, the director in his or her discretion may cause to be issued in the name of the department a written accusation. The accusation shall contain the name of the person, employer, labor organization, or employment agency accused, which shall be known as the respondent, shall set forth the nature of the charges, shall be served upon the respondent together with a copy of the verified complaint, as amended, and shall require the respondent to answer the charges at a hearing.

For any complaint treated by the director as a group or class complaint for purposes of investigation, conciliation, and accusation pursuant to Section 12961, an accusation shall be issued, if at all, within two years after the filing of the complaint. For any complaint alleging a violation of Section 51.7 of the Civil Code, an accusation shall be issued, if at all, within two years after the filing of the complaint. For all other complaints, an accusation shall be issued, if at all, within one year after the filing of a complaint. If the director determines, pursuant to Section 12961, that a complaint investigated as a group or class complaint under Section 12961 is to be treated as a group or class complaint for purposes of conciliation and accusation as well, that determination shall be made and shall be communicated in writing within one year after the filing of the complaint to each person, employer, labor organization, employment agency, or public entity alleged in the complaint to have committed an unlawful practice.

(b) If an accusation is not issued within 150 days after the filing of a complaint, or if the department earlier determines that no accusation will issue, the department shall promptly notify, in writing, the person
claiming to be aggrieved that the department shall issue, on his or her request, the right-to-sue notice. This notice shall indicate that the person claiming to be aggrieved may bring a civil action under this part against the person, employer, labor organization, or employment agency named in the verified complaint within one year from the date of that notice. If the person claiming to be aggrieved does not request a right-to-sue notice, the department shall issue the notice upon completion of its investigation, and not later than one year after the filing of the complaint. A city, county, or district attorney in a location having an enforcement unit established on or before March 1, 1991, pursuant to a local ordinance enacted for the purpose of prosecuting HIV/AIDS discrimination claims, acting on behalf of any person claiming to be aggrieved due to HIV/AIDS discrimination, may also bring a civil action under this part against the person, employer, labor organization, or employment agency named in the notice. The superior and municipal courts of the State of California shall have jurisdiction of those actions, and the aggrieved person may file in any of these courts. Such an action may be brought in any county in the state in which the unlawful practice is alleged to have been committed, in the county in which the records relevant to the practice are maintained and administered, or in the county in which the aggrieved person would have worked or would have had access to the public accommodation but for the alleged unlawful practice, but if the defendant is not found within any of these counties, an action may be brought within the county of the defendant’s residence or principal office. A copy of any complaint filed pursuant to this part shall be served on the principal offices of the department and of the commission. The remedy for failure to send a copy of a complaint is an order to do so. Those actions may not be filed as class actions or may not be maintained as class actions by the person or persons claiming to be aggrieved where those persons have filed a civil class action in the federal courts alleging a comparable claim of employment discrimination against the same defendant or defendants. In actions brought under this section, the court, in its discretion, may award to the prevailing party reasonable attorney’s fees and costs, including expert witness fees, except where the action is filed by a public agency or a public official, acting in an official capacity.

(c) (1) If an accusation includes a prayer either for damages for emotional injuries as a component of actual damages, or for administrative fines, or for both, or if an accusation is amended for the purpose of adding a prayer either for damages for emotional injuries as a component of actual damages, or for administrative fines, or both, the respondent may within 30 days after service of the accusation or amended accusation, elect to transfer the proceedings to a court in lieu of a hearing pursuant to subdivision (a) by serving a written notice to that
effect on the department, the commission, and the person claiming to be aggrieved. The commission shall prescribe the form and manner of giving written notice.

(2) No later than 30 days after the completion of service of the notice of election pursuant to paragraph (1), the department shall dismiss the accusation and shall, either itself or, at its election, through the Attorney General, file in the appropriate court an action in its own name on behalf of the person claiming to be aggrieved as the real party in interest. In this action, the person claiming to be aggrieved shall be the real party in interest and shall have the right to participate as a party and be represented by his or her own counsel. Complaints filed pursuant to this section shall be filed in the appropriate superior or municipal court in any county in which unlawful practices are alleged to have been committed, in the county in which records relevant to the alleged unlawful practices are maintained and administered, or in the county in which the person claiming to be aggrieved would have worked or would have had access to public accommodation, but for the alleged unlawful practices. If the defendant is not found in any of these counties, the action may be brought within the county of the defendant’s residence or principal office. Those actions shall be assigned to the court’s delay reduction program, or otherwise given priority for disposition by the court in which the action is filed.

(3) A court may grant as relief in any action filed pursuant to this subdivision any relief a court is empowered to grant in a civil action brought pursuant to subdivision (b), in addition to any other relief that, in the judgment of the court, will effectuate the purpose of this part. This relief may include a requirement that the employer conduct training for all employees, supervisors, and management on the requirements of this part, the rights and remedies of those who allege a violation of this part, and the employer’s internal grievance procedures.

(4) The department may amend an accusation to pray for either damages for emotional injury or for administrative fines, or both, provided that the amendment is made within 30 days of the issuance of the original accusation.

(d) (1) Notwithstanding subdivision (b), the one-year statute of limitations, commencing from the date of the right-to-sue notice by the Department of Fair Employment and Housing, to the person claiming to be aggrieved, shall be tolled when all of the following requirements have been met:

(A) A charge of discrimination or harassment is timely filed concurrently with the Equal Employment Opportunity Commission and the Department of Fair Employment and Housing.
(B) The investigation of the charge is deferred by the Department of Fair Employment and Housing to the Equal Employment Opportunity Commission.

(C) A right-to-sue notice is issued to the person claiming to be aggrieved upon deferral of the charge by the Department of Fair Employment and Housing to the Equal Employment Opportunity Commission.

(2) The time for commencing an action for which the statute of limitations is tolled under paragraph (1) expires when the federal right-to-sue period to commence a civil action expires, or one year from the date of the right-to-sue notice by the Department of Fair Employment and Housing, whichever is later.

(3) This subdivision is intended to codify the holding in Downs v. Department of Water and Power of City of Los Angeles (1997) 58 Cal.App.4th 1093.

(e) (1) Notwithstanding subdivision (b), the one-year statute of limitations, commencing from the date of the right-to-sue notice by the Department of Fair Employment and Housing, to the person claiming to be aggrieved, shall be tolled when all of the following requirements have been met:

(A) A charge of discrimination or harassment is timely filed concurrently with the Equal Employment Opportunity Commission and the Department of Fair Employment and Housing.

(B) The investigation of the charge is deferred by the Equal Employment Opportunity Commission to the Department of Fair Employment and Housing.

(C) After investigation and determination by the Department of Fair Employment and Housing, the Equal Employment Opportunity Commission agrees to perform a substantial weight review of the determination of the Department or conducts its own investigation of the claim filed by the aggrieved person.

(2) The time for commencing an action for which the statute of limitations is tolled under paragraph (1) shall expire when the federal right-to-sue period to commence a civil action expires, or one year from the date of the right-to-sue notice by the Department of Fair Employment and Housing, whichever is later.

CHAPTER 295

An act to amend Sections 1250.410 and 1255.060 of the Code of Civil Procedure, relating to eminent domain.
The people of the State of California do enact as follows:

SECTION 1. Section 1250.410 of the Code of Civil Procedure is amended to read:

1250.410. (a) At least 20 days prior to the date of the trial on issues relating to compensation, the plaintiff shall file with the court and serve on the defendant its final offer of compensation in the proceeding and the defendant shall file and serve on the plaintiff its final demand for compensation in the proceeding. The offer and the demand shall include all compensation required pursuant to this title, including compensation for loss of goodwill, if any, and shall state whether interest and costs are included. These offers and demands shall be the only offers and demands considered by the court in determining the entitlement, if any, to litigation expenses. Service shall be in the manner prescribed by Chapter 5 (commencing with Section 1010) of Title 14 of Part 2.

(b) If the court, on motion of the defendant made within 30 days after entry of judgment, finds that the offer of the plaintiff was unreasonable and that the demand of the defendant was reasonable viewed in the light of the evidence admitted and the compensation awarded in the proceeding, the costs allowed pursuant to Section 1268.710 shall include the defendant’s litigation expenses.

(c) In determining the amount of litigation expenses allowed under this section, the court shall consider the offer required to be made by the plaintiff pursuant to Section 7267.2 of the Government Code, any deposit made by the plaintiff pursuant to Chapter 6 (commencing with Section 1255.010), and any other written offers and demands filed and served before or during the trial.

(d) If timely made, the offers and demands as provided in subdivision (a) shall be considered by the court on the issue of determining an entitlement to litigation expenses.

SEC. 2. Section 1255.060 of the Code of Civil Procedure is amended to read:

1255.060. (a) The amount deposited or withdrawn pursuant to this chapter may not be given in evidence or referred to in the trial of the issue of compensation.

(b) In the trial of the issue of compensation, an appraisal report, written statement and summary of an appraisal, or other statement made in connection with a deposit or withdrawal pursuant to this chapter may not be considered to be an admission of any party.

(c) Upon objection of the party at whose request an appraisal report, written statement and summary of the appraisal, or other statement was
made in connection with a deposit or withdrawal pursuant to this chapter, the person who made the report or statement and summary or other statement may not be called at the trial on the issue of compensation by any other party to give an opinion as to compensation. If the person who prepared the report, statement and summary, or other statement is called at trial to give an opinion as to compensation, the report, statement and summary, or other statement may be used for impeachment of the witness.

CHAPTER 296

An act to amend Section 4703.6 of the Labor Code, relating to workers’ compensation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 28, 2002. Filed with Secretary of State August 28, 2002.]

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

SECTION 1. Section 4703.6 of the Labor Code is amended to read:

4703.6. The provisions of Section 4703.5 shall also apply to a totally dependent minor child of a local safety member as defined in Article 4 (commencing with Section 20420) of Chapter 4 of Part 3 of Division 5 of Title 2 of the Government Code, or a safety member as defined in Section 31469.3 of the Government Code, other than a member performing duties related to juvenile hall group counseling and group supervision, or a safety member subject to any public retirement system, or a patrol member as defined in Section 20390 of the Government Code, if that member was killed in the line of duty prior to January 1, 1990, and the totally dependent minor child is otherwise entitled to benefits under Section 4703.5.

SEC. 2. The provisions of this act shall apply retroactively to January 1, 2002.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide death benefits to the dependent minor children of certain local safety members and patrol members as soon as possible, it is necessary that this act take effect immediately.
An act to add Section 30614 to the Public Resources Code, relating to coastal development permits.

[Approved by Governor August 28, 2002. Filed with Secretary of State August 28, 2002.]

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

SECTION 1. Section 30614 is added to the Public Resources Code, to read:

30614. (a) The commission shall take appropriate steps to ensure that coastal development permit conditions existing as of January 1, 2002, relating to affordable housing are enforced and do not expire during the term of the permit.

(b) Nothing in this section is intended to retroactively authorize the release of any housing unit for persons and families of low or moderate income from coastal development permit requirements except as provided in Section 30607.2.

CHAPTER 298

An act to amend Section 1205 of the Labor Code, relating to employment.

[Approved by Governor August 28, 2002. Filed with Secretary of State August 28, 2002.]

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

SECTION 1. Section 1205 of the Labor Code is amended to read:

1205. (a) As used in this section:

(1) “Local jurisdiction” means any city, county, district, or agency, or any subdivision or combination thereof.

(2) “State agency” means any state office, officer, department, division, bureau, board, commission, or agency, or any subdivision thereof.

(3) “Labor standards” means any legal requirements regarding wages paid, hours worked, and other conditions of employment.

(b) Nothing in this part shall be deemed to restrict the exercise of local police powers in a more stringent manner.

(c) When a local jurisdiction expends funds that have been provided to it by a state agency, operates a program that has received assistance
from a state agency, or engages in an activity that has received assistance from a state agency, labor standards established by the local jurisdiction through exercise of local police powers or spending powers shall take effect with regard to that expenditure, program, or activity, so long as those labor standards are not in explicit conflict with, or explicitly preempted by, state law. A state agency may not require as a condition to the receipt of state funds or assistance that a local jurisdiction refrain from applying labor standards established by the local jurisdiction to expenditures, programs, or activities supported by the state funds or assistance in question.

CHAPTER 299

An act to add Section 401.16 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 28, 2002. Filed with Secretary of State August 28, 2002.]

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

SECTION 1. Section 401.16 is added to the Revenue and Taxation Code, to read:

401.16. If, for purposes of property taxation, the county assessor utilizes the reproduction or replacement cost approach to value to determine the value of tangible personal property or trade fixtures, both of the following apply:

(a) (1) If the county assessor depreciates this property using percent good factors published by the State Board of Equalization that provide separate factors for property that is first acquired new and property that is first acquired used, the assessor may not average the published factors to apply these factors to both classes of new and used property.

(2) Notwithstanding paragraph (1), if information reported by a taxpayer does not indicate whether this property was first acquired by the taxpayer new or used, the assessor may average the published factors.

(b) If the county assessor depreciates this property using percent good factors that include a minimum percent good, the minimum percent good factors shall be determined in a manner that is supportable.
An act to amend Sections 11125, 11125.1, 11135, 54954.1, 54954.2, and 54957.5 of, and to add Sections 11123.1 and 54953.2 to, the Government Code, relating to access to government programs.

[Approved by Governor August 28, 2002. Filed with Secretary of State August 28, 2002.]

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

SECTION 1. Section 11123.1 is added to the Government Code, to read:

11123.1. All meetings of a state body that are open and public shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

SEC. 2. Section 11125 of the Government Code is amended to read:

11125. (a) The state body shall provide notice of its meeting to any person who requests that notice in writing. Notice shall be given and also made available on the Internet at least 10 days in advance of the meeting, and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the address of the Internet site where notices required by this article are made available.

(b) The notice of a meeting of a body that is a state body shall include a specific agenda for the meeting, containing a brief description of the items of business to be transacted or discussed in either open or closed session. A brief general description of an item generally need not exceed 20 words. A description of an item to be transacted or discussed in closed session shall include a citation of the specific statutory authority under which a closed session is being held. No item shall be added to the agenda subsequent to the provision of this notice, unless otherwise permitted by this article.

(c) Notice of a meeting of a state body that complies with this section shall also constitute notice of a meeting of an advisory body of that state body, provided that the business to be discussed by the advisory body is covered by the notice of the meeting of the state body, provided that the specific time and place of the advisory body’s meeting is announced during the open and public state body’s meeting, and provided that the advisory body’s meeting is conducted within a reasonable time of, and nearby, the meeting of the state body.

(d) A person may request, and shall be provided, notice pursuant to subdivision (a) for all meetings of a state body or for a specific meeting
or meetings. In addition, at the state body’s discretion, a person may request, and may be provided, notice of only those meetings of a state body at which a particular subject or subjects specified in the request will be discussed.

(e) A request for notice of more than one meeting of a state body shall be subject to the provisions of Section 14911.

(f) The notice shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by any person with a disability. The notice shall include information regarding how, to whom, and by when a request for any disability-related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires these aids or services in order to participate in the public meeting.

SEC. 3. Section 11125.1 of the Government Code is amended to read:

11125.1. (a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and other writings, when distributed to all, or a majority of all, of the members of a state body by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7 of this code, or Section 489.1 or 583 of the Public Utilities Code.

(b) Writings that are public records under subdivision (a) and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by a person with a disability.

(c) In the case of the Franchise Tax Board, prior to that state body taking final action on any item, writings pertaining to that item that are public records under subdivision (a) that are distributed to members of the state body by board staff or individual members prior to or during a meeting shall be: (1) made available for public inspection at that meeting, (2) distributed to all persons who request notice in writing
pursuant to subdivision (a) of Section 11125, and (3) made available on
the Internet.
(d) Nothing in this section shall be construed to prevent a state body
from charging a fee or deposit for a copy of a public record pursuant to
Section 6253, except that no surcharge shall be imposed on persons with
disabilities in violation of Section 202 of the Americans with
Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules
and regulations adopted in implementation thereof. The writings
described in subdivision (b) are subject to the requirements of the
California Public Records Act (Chapter 3.5 (commencing with Section
6250) of Division 7 of Title 1), and shall not be construed to limit or
delay the public’s right to inspect any record required to be disclosed by
that act, or to limit the public’s right to inspect any record covered by that
act. This section shall not be construed to be applicable to any writings
solely because they are properly discussed in a closed session of a state
body. Nothing in this article shall be construed to require a state body to
place any paid advertisement or any other paid notice in any publication.
(e) “Writing” for purposes of this section means “writing” as
defined under Section 6252.
SEC. 3.5. Section 11125.1 of the Government Code is amended to
read:

11125.1. (a) Notwithstanding Section 6255 or any other provisions
of law, agendas of public meetings and other writings, when distributed
to all, or a majority of all, of the members of a state body by any person
in connection with a matter subject to discussion or consideration at a
public meeting of the body, are disclosable public records under the
California Public Records Act (Chapter 3.5 (commencing with Section
6250) of Division 7 of Title 1), and shall be made available upon request
without delay. However, this section shall not include any writing
exempt from public disclosure under Section 6253.5, 6254, or 6254.7 of
this code, or Section 489.1 or 583 of the Public Utilities Code.
(b) Writings that are public records under subdivision (a) and that are
distributed to members of the state body prior to or during a meeting,
pertaining to any item to be considered during the meeting, shall be made
available for public inspection at the meeting if prepared by the state
body or a member of the state body, or after the meeting if prepared by
some other person. These writings shall be made available in appropriate
alternative formats, as required by Section 202 of the Americans with
Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules
and regulations adopted in implementation thereof, upon request by a
person with a disability.
(c) In the case of the Franchise Tax Board, prior to that state body
taking final action on any item, writings pertaining to that item that are
public records under subdivision (a) that are distributed to members of
the state body by board staff or individual members prior to or during a meeting shall be:

(1) Made available for public inspection at that meeting.

(2) Distributed to all persons who request notice in writing pursuant to subdivision (a) of Section 11125.

(3) Made available on the Internet.

(d) Prior to the State Board of Equalization taking final action on any item that does not involve a named tax or fee payer, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by board staff or individual members to members of the state body prior to or during a meeting shall be:

(1) Made available for public inspection at that meeting.

(2) Distributed to all persons who request or have requested copies of these writings.

(3) Made available on the Internet.

(e) Nothing in this section shall be construed to prevent a state body from charging a fee or deposit for a copy of a public record pursuant to Section 6253, except that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The writings described in subdivision (b) are subject to the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall not be construed to limit or delay the public’s right to inspect any record required to be disclosed by that act, or to limit the public’s right to inspect any record covered by that act. This section shall not be construed to be applicable to any writings solely because they are properly discussed in a closed session of a state body. Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication.

(f) “Writing” for purposes of this section means “writing” as defined under Section 6252.

SEC. 4. Section 11135 of the Government Code is amended to read:

11135. (a) No person in the State of California shall, on the basis of race, national origin, ethnic group identification, religion, age, sex, color, or disability, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state.

(b) With respect to discrimination on the basis of disability, programs and activities subject to subdivision (a) shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations
adopted in implementation thereof, except that if the laws of this state
prescribe stronger protections and prohibitions, the programs and
activities subject to subdivision (a) shall be subject to the stronger
protections and prohibitions.
(c) As used in this section, "disability" means any mental or physical
disability as defined in Section 12926.
SEC. 5. Section 54953.2 is added to the Government Code, to read:
54953.2. All meetings of a legislative body of a local agency that are
open and public shall meet the protections and prohibitions contained in
Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C.
Sec. 12132), and the federal rules and regulations adopted in
implementation thereof.
SEC. 6. Section 54954.1 of the Government Code is amended to
read:
54954.1. Any person may request that a copy of the agenda, or a
copy of all the documents constituting the agenda packet, of any meeting
of a legislative body be mailed to that person. If requested, the agenda
and documents in the agenda packet shall be made available in
appropriate alternative formats to persons with a disability, as required
by Section 202 of the Americans with Disabilities Act of 1990 (42
U.S.C. Sec. 12132), and the federal rules and regulations adopted in
implementation thereof. Upon receipt of the written request, the
legislative body or its designee shall cause the requested materials to be
mailed at the time the agenda is posted pursuant to Section 54954.2 and
54956 or upon distribution to all, or a majority of all, of the members of
a legislative body, whichever occurs first. Any request for mailed copies
of agendas or agenda packets shall be valid for the calendar year in which
it is filed, and must be renewed following January 1 of each year. The
legislative body may establish a fee for mailing the agenda or agenda
packet, which fee shall not exceed the cost of providing the service.
Failure of the requesting person to receive the agenda or agenda packet
pursuant to this section shall not constitute grounds for invalidation of
the actions of the legislative body taken at the meeting for which the
agenda or agenda packet was not received.
SEC. 7. Section 54954.2 of the Government Code is amended to
read:
54954.2. (a) At least 72 hours before a regular meeting, the
legislative body of the local agency, or its designee, shall post an agenda
containing a brief general description of each item of business to be
transacted or discussed at the meeting, including items to be discussed
in closed session. A brief general description of an item generally need
not exceed 20 words. The agenda shall specify the time and location of
the regular meeting and shall be posted in a location that is freely
accessible to members of the public. If requested, the agenda shall be
made available in appropriate alternative formats to persons with a
disability, as required by Section 202 of the Americans with Disabilities
Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations
adopted in implementation thereof. The agenda shall include
information regarding how, to whom, and when a request for
disability-related modification or accommodation, including auxiliary
aids or services may be made by a person with a disability who requires
a modification or accommodation in order to participate in the public
meeting.

No action or discussion shall be undertaken on any item not appearing
on the posted agenda, except that members of a legislative body or its
staff may briefly respond to statements made or questions posed by
persons exercising their public testimony rights under Section 54954.3.
In addition, on their own initiative or in response to questions posed by
the public, a member of a legislative body or its staff may ask a question
for clarification, make a brief announcement, or make a brief report on
his or her own activities. Furthermore, a member of a legislative body,
or the body itself, subject to rules or procedures of the legislative body,
may provide a reference to staff or other resources for factual
information, request staff to report back to the body at a subsequent
meeting concerning any matter, or take action to direct staff to place a
matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take
action on items of business not appearing on the posted agenda under any
of the conditions stated below. Prior to discussing any item pursuant to
this subdivision, the legislative body shall publicly identify the item.

(1) Upon a determination by a majority vote of the legislative body
that an emergency situation exists, as defined in Section 54956.5.

(2) Upon a determination by a two-thirds vote of the members of the
legislative body present at the meeting, or, if less than two-thirds of the
members are present, a unanimous vote of those members present, that
there is a need to take immediate action and that the need for action came
to the attention of the local agency subsequent to the agenda being posted
as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior
meeting of the legislative body occurring not more than five calendar
days prior to the date action is taken on the item, and at the prior meeting
the item was continued to the meeting at which action is being taken.

SEC. 8. Section 54957.5 of the Government Code is amended to
read:

54957.5. (a) Notwithstanding Section 6255 or any other provisions
of law, agendas of public meetings and any other writings, when
distributed to all, or a majority of all, of the members of a legislative
body of a local agency by any person in connection with a matter subject
to discussion or consideration at a public meeting of the body, are
disclosable public records under the California Public Records Act
(Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1),
and shall be made available upon request without delay. However, this
section shall not include any writing exempt from public disclosure
under Section 6253.5, 6254, 6254.7, or 6254.22.

(b) Writings that are public records under subdivision (a) and that are
distributed during a public meeting shall be made available for public
inspection at the meeting if prepared by the local agency or a member
of its legislative body, or after the meeting if prepared by some other
person. These writings shall be made available in appropriate alternative
formats upon request by a person with a disability, as required by Section
12132), and the federal rules and regulations adopted in implementation
thereof.

(c) Nothing in this chapter shall be construed to prevent the
legislative body of a local agency from charging a fee or deposit for a
copy of a public record pursuant to Section 6253, except that no
surcharge shall be imposed on persons with disabilities in violation of
Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C.
Sec. 12132), and the federal rules and regulations adopted in
implementation thereof.

(d) This section shall not be construed to limit or delay the public’s
right to inspect or obtain a copy of any record required to be disclosed
under the requirements of the California Public Records Act (Chapter
3.5 (commencing with Section 6250) of Division 7 of Title 1). Nothing
in this chapter shall be construed to require a legislative body of a local
agency to place any paid advertisement or any other paid notice in any
publication.

SEC. 9. Section 3.5 of this bill incorporates amendments to Section
11125.1 of the Government Code proposed by both this bill and AB
1752. It shall only become operative if (1) both bills are enacted and
become effective on or before January 1, 2003, (2) each bill amends
Section 11125.1 of the Government Code, and (3) this bill is enacted
after AB 1752, in which case Section 3 of this bill shall not become
operative.

CHAPTER  301

An act to amend Sections 1946.1, 1947.15, and 1954 of the Civil
Code, to amend Section 1179 of the Code of Civil Procedure, and to
amend Section 7060.2 of the Government Code, relating to landlord-tenant.

[Approved by Governor August 28, 2002. Filed with Secretary of State August 28, 2002.]

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

SECTION 1. Section 1946.1 of the Civil Code is amended to read:

1946.1. (a) Notwithstanding Section 1946, a hiring of residential real property for a term not specified by the parties, is deemed to be renewed as stated in Section 1945, at the end of the term implied by law unless one of the parties gives written notice to the other of his or her intention to terminate the tenancy, as provided in this section.

(b) An owner of a residential dwelling giving notice pursuant to this section shall give notice at least 60 days prior to the proposed date of termination. A tenant giving notice pursuant to this section shall give notice for a period at least as long as the term of the periodic tenancy prior to the proposed date of termination.

(c) Notwithstanding subdivision (b), an owner of a residential dwelling giving notice pursuant to this section shall give notice at least 30 days prior to the proposed date of termination if the tenant has resided in the dwelling for less than one year.

(d) Notwithstanding subdivision (b), an owner of a residential dwelling giving notice pursuant to this section shall give notice at least 30 days prior to the proposed date of termination if all of the following are true:

(1) The dwelling or unit is alienable separate from the title to any other dwelling unit.

(2) The owner has contracted to sell the dwelling or unit to a bona fide purchaser for value, and has established an escrow with a licensed escrow agent, as defined in Sections 17004 and 17200 of the Financial Code, or a licensed real estate broker, as defined in Section 10131 of the Business and Professions Code.

(3) The purchaser is a natural person or persons.

(4) The notice is given no more than 120 days after the escrow has been established.

(5) Notice was not previously given to the tenant pursuant to this section.

(6) The purchaser in good faith intends to reside in the property for at least one full year after the termination of the tenancy.

(e) The notices required by this section shall be given in the manner prescribed in Section 1162 of the Code of Civil Procedure or by sending a copy by certified or registered mail.
(f) This section may not be construed to affect the authority of a public entity that otherwise exists to regulate or monitor the basis for eviction.

(g) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

SEC. 2. Section 1947.15 of the Civil Code is amended to read:

1947.15. (a) The Legislature declares the purpose of this section is to:

(1) Ensure that owners of residential rental units that are subject to a system of controls on the price at which the units may be offered for rent or lease, or controls on the adjustment of the rent level, are not precluded or discouraged from obtaining a fair return on their properties as guaranteed by the United States Constitution and California Constitution because the professional expenses reasonably required in the course of the administrative proceedings, in order to obtain the rent increases necessary to provide a fair return, are not treated as a legitimate business expense.

(2) Encourage agencies which administer a system of controls on the price at which residential rental units may be offered for rent or lease, or controls the adjustment of the rent level, to enact streamlined administrative procedures governing rent adjustment petitions which minimize, to the extent possible, the cost and expense of these administrative proceedings.

(3) Ensure that the cost of professional services reasonably incurred and required by owners of residential rental units subject to a system of controls in the price at which the units may be offered for rent or lease, or controls on the adjustments of the rent level in the course of defending rights related to the rent control system, be treated as a legitimate business expense.

(b) Any city, county, or city and county, including a charter city, which administers an ordinance, charter provision, rule, or regulation that controls or establishes a system of controls on the price at which all or any portion of the residential rental units located within the city, county, or city and county, may be offered for rent or lease, or controls the adjustment of the rent level, and which does not include a system of vacancy decontrol, as defined in subdivision (i), shall permit reasonable expenses, fees, and other costs for professional services, including, but not limited to, legal, accounting, appraisal, bookkeeping, consulting, property management, or architectural services, reasonably incurred in the course of successfully pursuing rights under or in relationship to, that ordinance, charter provision, rule, or regulation, or the right to a fair return on an owner’s property as protected by the United States Constitution or California Constitution, to be included in any calculation of net operating income and operating expenses used to determine a fair
return to the owner of the property. All expenses, fees, and other costs reasonably incurred by an owner of property in relation to administrative proceedings for purposes specified in this subdivision shall be included in the calculation specified in this subdivision.

(c) Reasonable fees that are incurred by the owner in successfully obtaining a judicial reversal of an adverse administrative decision regarding a petition for upward adjustment of rents shall be assessed against the respondent public agency which issued the adverse administrative decision, and shall not be included in the calculations specified in subdivisions (b) and (d).

(d) (1) Notwithstanding subdivision (b), the city, county, or city and county, on the basis of substantial evidence in the record that the expenses reasonably incurred in the underlying proceeding will not reoccur annually, may amortize the expenses for a period not to exceed five years, except that in extraordinary circumstances, the amortization period may be extended to a period of eight years. The extended amortization period shall not apply to vacant units and shall end if the unit becomes vacant during the period that the expense is being amortized. An amortization schedule shall include a reasonable rate of interest.

(2) Any determination of the reasonableness of the expenses claimed, of an appropriate amortization period, or of the award of an upward adjustment of rents to compensate the owner for expenses and costs incurred shall be made as part of, or immediately following, the decision in the underlying administrative proceeding.

(e) Any and all of the following factors shall be considered in the determination of the reasonableness of the expenses, fees, or other costs authorized by this section:

(1) The rate charged for those professional services in the relevant geographic area.

(2) The complexity of the matter.

(3) The degree of administrative burden or judicial burden, or both, imposed upon the property owner.

(4) The amount of adjustment sought or the significance of the rights defended and the results obtained.

(5) The relationship of the result obtained to the expenses, fees, and other costs incurred (that is, whether professional assistance was reasonably related to the result achieved).

(f) This section shall not be applicable to any ordinance, rule, regulation, or charter provision of any city, county, or city and county, including a charter city, to the extent that the ordinance, rule, or regulation, or charter provision places a limit on the amount of rent that an owner may charge a tenant of a mobilehome park.
(g) For purposes of this section, the rights of a property owner shall be deemed to be successfully pursued or defended if the owner obtains an upward adjustment in rents, successfully defends his or her rights in an administrative proceeding brought by the tenant or the local rent board, or prevails in a proceeding, brought pursuant to Section 1947.8 concerning certification of maximum lawful rents.

(h) (1) If it is determined that a landlord petition assisted by attorneys or consultants is wholly without merit, the tenant shall be awarded a reduction in rent to compensate for the reasonable costs of attorneys or consultants retained by the tenant to defend the petition brought by the landlord. The reasonableness of the costs of the tenant’s defense of the action brought by the landlord shall be determined pursuant to the same provisions established by this section for determining the reasonableness of the landlord’s costs for the professional services. The determination of the reasonableness of the expenses claimed, an appropriate amortization period, and the award of a reduction in rents to compensate the tenant for costs incurred shall be made immediately following the decision in the underlying administrative proceeding.

(2) If it is determined that a landlord’s appeal of an adverse administrative decision is frivolous or solely intended to cause unnecessary delay, the public agency which defended the action shall be awarded its reasonably incurred expenses, including attorney’s fees, in defending the action. As used in this paragraph, “frivolous” means either (A) totally and completely without merit; or (B) for the sole purpose of harassing an opposing party.

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

(1) “Vacancy decontrol” means a system of controls on the price at which residential rental units may be offered for rent or lease which permits the rent to be increased to its market level, without restriction, each time a vacancy occurs. “Vacancy decontrol” includes systems which reimpose controls on the price at which residential rental units may be offered for rent or lease upon rerental of the unit.

(2) “Vacancy decontrol” includes circumstances where the tenant vacates the unit of his or her own volition, or where the local jurisdiction permits the rent to be raised to market rate after an eviction for cause, as specified in the ordinance, charter provision, rule, or regulation.

(j) This section shall not be construed to affect in any way the ability of a local agency to set its own fair return standards or to limit other actions under its local rent control program other than those expressly set forth in this section.

(k) This section is not operative unless the Costa-Hawkins Rental Housing Act (Chapter 2.7 (commencing with Section 1954.50) of Title 5 of Part 4 of Division 3) is repealed.
SEC. 3. Section 1954 of the Civil Code is amended to read:

1954. A landlord may enter the dwelling unit only in the following cases:

(a) In case of emergency.
(b) To make necessary or agreed repairs, decorations, alterations or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen or contractors.
(c) When the tenant has abandoned or surrendered the premises.
(d) Pursuant to court order.

Except in cases of emergency or when the tenant has abandoned or surrendered the premises, entry may not be made during other than normal business hours unless the tenant consents at the time of entry.

The landlord shall not abuse the right of access or use it to harass the tenant. Except in cases of emergency or when the tenant has abandoned or surrendered the premises, the landlord shall give the tenant reasonable notice in writing of his or her intent to enter and enter only during normal business hours. The notice may be personally delivered to the tenant, left with someone of a suitable age and discretion at the premises, or, left on, near, or under the usual entry door of the premises in a manner in which a reasonable person would discover the notice. Twenty-four hours is presumed reasonable notice in the absence of evidence to the contrary. The notice may be mailed to the tenant. Mailing of the notice at least six days prior to an intended entry is presumed reasonable notice in the absence of evidence to the contrary.

If the purpose of the entry is to exhibit the dwelling unit to prospective or actual purchasers, the notice may be given orally, in person or by telephone, if the landlord or his or her agent has notified the tenant in writing within 120 days of the oral notice that the property is for sale and that the landlord or agent may contact the tenant orally for the purpose described above. Twenty-four hours is presumed reasonable notice in the absence of evidence to the contrary. At the time of entry, the landlord or agent shall leave written evidence of the entry inside the unit.

SEC. 4. Section 1179 of the Code of Civil Procedure is amended to read:

1179. The court may relieve a tenant against a forfeiture of a lease or rental agreement, whether written or oral, and whether or not the tenancy has terminated, and restore him or her to his or her former estate or tenancy, in case of hardship, as provided in Section 1174. The court has the discretion to relieve any person against forfeiture on its own motion.

An application for relief against forfeiture may be made at any time prior to restoration of the premises to the landlord. The application may be made by a tenant or subtenant, or a mortgagee of the term, or any
person interested in the continuance of the term. It must be made upon petition, setting forth the facts upon which the relief is sought, and be verified by the applicant. Notice of the application, with a copy of the petition, must be served at least five days prior to the hearing on the plaintiff in the judgment, who may appear and contest the application. Alternatively, a person appearing without an attorney may make the application orally, if the plaintiff either is present and has an opportunity to contest the application, or has been given ex parte notice of the hearing and the purpose of the oral application. In no case shall the application or motion be granted except on condition that full payment of rent due, or full performance of conditions or covenants stipulated, so far as the same is practicable, be made.

SEC. 5. Section 7060.2 of the Government Code is amended to read:

7060.2. If a public entity, by valid exercise of its police power, has in effect any control or system of control on the price at which accommodations may be offered for rent or lease, that entity may, notwithstanding any provision of this chapter, provide by statute or ordinance, or by regulation as specified in Section 7060.5, that any accommodations which have been offered for rent or lease and which were subject to that control or system of control at the time the accommodations were withdrawn from rent or lease, shall be subject to the following:

(a) (1) For all tenancies commenced during the time periods described in paragraph (2), the accommodations shall be offered and rented or leased at the lawful rent in effect at the time any notice of intent to withdraw the accommodations is filed with the public entity, plus annual adjustments available under the system of control.

(2) The provisions of paragraph (1) shall apply to all tenancies commenced during either of the following time periods:

(A) The five-year period after any notice of intent to withdraw the accommodations is filed with the public entity, whether or not the notice of intent is rescinded or the withdrawal of the accommodations is completed pursuant to the notice of intent.

(B) The five-year period after the accommodations are withdrawn.

(3) This subdivision shall prevail over any conflicting provision of law authorizing the landlord to establish the rental rate upon the initial hiring of the accommodations.

(b) If the accommodations are offered again for rent or lease for residential purposes within two years of the date the accommodations were withdrawn from rent or lease, the following provisions shall govern:

(1) The owner of the accommodations shall be liable to any tenant or lessee who was displaced from the property by that action for actual and exemplary damages. Any action by a tenant or lessee pursuant to this
paragraph shall be brought within three years of the withdrawal of the accommodations from rent or lease. However, nothing in this paragraph precludes a tenant from pursuing any alternative remedy available under the law.

(2) A public entity which has acted pursuant to this section may institute a civil proceeding against any owner who has again offered accommodations for rent or lease subject to this subdivision, for exemplary damages for displacement of tenants or lessees. Any action by a public entity pursuant to this paragraph shall be brought within three years of the withdrawal of the accommodations from rent or lease.

(3) Any owner who offers accommodations again for rent or lease shall first offer the unit for rent or lease to the tenant or lessee displaced from that unit by the withdrawal pursuant to this chapter, if the tenant has advised the owner in writing within 30 days of the displacement of his or her desire to consider an offer to renew the tenancy and has furnished the owner with an address to which that offer is to be directed. That tenant, lessee, or former tenant or lessee may advise the owner at any time during the eligibility of a change of address to which an offer is to be directed.

If the owner again offers the accommodations for rent or lease pursuant to this subdivision, and the tenant or lessee has advised the owner pursuant to this subdivision of a desire to consider an offer to renew the tenancy, then the owner shall offer to reinstitute a rental agreement or lease on terms permitted by law to that displaced tenant or lessee.

This offer shall be deposited in the United States mail, by registered or certified mail with postage prepaid, addressed to the displaced tenant or lessee at the address furnished to the owner as provided in this subdivision, and shall describe the terms of the offer. The displaced tenant or lessee shall have 30 days from the deposit of the offer in the mail to accept the offer by personal delivery of that acceptance or by deposit of the acceptance in the United States mail by registered or certified mail with postage prepaid.

(c) A public entity which has acted pursuant to this section, may require by statute or ordinance, or by regulation as specified in Section 7060.5, that an owner who offers accommodations again for rent or lease within a period not exceeding 10 years from the date on which they are withdrawn, and which are subject to this subdivision, shall first offer the unit to the tenant or lessee displaced from that unit by the withdrawal, if that tenant or lessee requests the offer in writing within 30 days after the owner has notified the public entity of an intention to offer the accommodations again for residential rent or lease pursuant to a requirement adopted by the public entity under subdivision (c) of Section 7060.4. The owner of the accommodations shall be liable to any
tenant or lessee who was displaced by that action for failure to comply with this paragraph, for punitive damages in an amount which does not exceed the contract rent for six months.

(d) If the accommodations are demolished, and new accommodations are constructed on the same property, and offered for rent or lease within five years of the date the accommodations were withdrawn from rent or lease, the newly constructed accommodations shall be subject to any system of controls on the price at which they would be offered on the basis of a fair and reasonable return on the newly constructed accommodations, notwithstanding any exemption from the system of controls for newly constructed accommodations.

(e) The amendments to this section enacted by the act adding this subdivision shall apply to all new tenancies created after December 31, 2002. If a new tenancy was lawfully created prior to January 1, 2003, after a lawful withdrawal of the unit under this chapter, the amendments to this section enacted by the act adding this subdivision may not apply to new tenancies created after that date.

CHAPTER 302

An act to amend Sections 243.4, 261, 286, 288a, and 289 of the Penal Code, relating to crimes.

[Approved by Governor August 28, 2002. Filed with Secretary of State August 28, 2002.]

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

SECTION 1. Section 243.4 of the Penal Code is amended to read:

243.4. (a) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars ($2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars ($10,000).

(b) Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. A
violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars ($2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars ($10,000).

(c) Any person who touches an intimate part of another person for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim is at the time unconscious of the nature of the act because the perpetrator fraudulently represented that the touching served a professional purpose, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars ($2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars ($10,000).

(d) Any person who, for the purpose of sexual arousal, sexual gratification, or sexual abuse, causes another, against that person’s will while that person is unlawfully restrained either by the accused or an accomplice, or is institutionalized for medical treatment and is seriously disabled or medically incapacitated, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars ($2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars ($10,000).

(e) (1) Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of misdemeanor sexual battery, punishable by a fine not exceeding two thousand dollars ($2,000), by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. However, if the defendant was an employer and the victim was an employee of the defendant, the misdemeanor sexual battery shall be punishable by a fine not exceeding three thousand dollars ($3,000), by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Notwithstanding any other provision of law, any amount of a fine above two thousand dollars ($2,000) which is collected from a defendant for a violation of this subdivision shall be transmitted to the State Treasury and, upon appropriation by the Legislature, distributed to the Department of Fair Employment and Housing for the purpose of enforcement of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), including, but not limited to, laws that proscribe sexual harassment in places of employment. However, in no event shall an amount over two
thousand dollars ($2,000) be transmitted to the State Treasury until all fines, including any restitution fines that may have been imposed upon the defendant, have been paid in full.

(2) As used in this subdivision, “touches” means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim.

(f) As used in subdivisions (a), (b), (c), and (d), “ touches” means physical contact with the skin of another person whether accomplished directly or through the clothing of the person committing the offense.

(g) As used in this section, the following terms have the following meanings:

(1) “Intimate part” means the sexual organ, anus, groin, or buttocks of any person, and the breast of a female.

(2) “Sexual battery” does not include the crimes defined in Section 261 or 289.

(3) “Seriously disabled” means a person with severe physical or sensory disabilities.

(4) “Medically incapacitated” means a person who is incapacitated as a result of prescribed sedatives, anesthesia, or other medication.

(5) “Institutionalized” means a person who is located voluntarily or involuntarily in a hospital, medical treatment facility, nursing home, acute care facility, or mental hospital.

(6) “Minor” means a person under 18 years of age.

(h) This section shall not be construed to limit or prevent prosecution under any other law which also proscribes a course of conduct that also is proscribed by this section.

(i) In the case of a felony conviction for a violation of this section, the fact that the defendant was an employer and the victim was an employee of the defendant shall be a factor in aggravation in sentencing.

(j) A person who commits a violation of subdivision (a), (b), (c), or (d) against a minor when the person has a prior felony conviction for a violation of this section shall be guilty of a felony, punishable by imprisonment in the state prison for two, three, or four years and a fine not exceeding ten thousand dollars ($10,000).

SEC. 2. Section 261 of the Penal Code is amended to read:

261. (a) Rape is an act of sexual intercourse accomplished with a person not the spouse of the perpetrator, under any of the following circumstances:

(1) Where a person is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with
Section 5000) of Division 5 of the Welfare and Institutions Code), the
prosecuting attorney shall prove, as an element of the crime, that a
mental disorder or developmental or physical disability rendered the
alleged victim incapable of giving consent.

(2) Where it is accomplished against a person’s will by means of
force, violence, duress, menace, or fear of immediate and unlawful
bodily injury on the person or another.

(3) Where a person is prevented from resisting by any intoxicating or
anesthetic substance, or any controlled substance, and this condition was
known, or reasonably should have been known by the accused.

(4) Where a person is at the time unconscious of the nature of the act,
and this is known to the accused. As used in this paragraph,
“unconscious of the nature of the act” means incapable of resisting
because the victim meets one of the following conditions:

(A) Was unconscious or asleep.

(B) Was not aware, knowing, perceiving, or cognizant that the act
occurred.

(C) Was not aware, knowing, perceiving, or cognizant of the essential
characteristics of the act due to the perpetrator’s fraud in fact.

(D) Was not aware, knowing, perceiving, or cognizant of the essential
characteristics of the act due to the perpetrator’s fraudulent
representation that the sexual penetration served a professional purpose
when it served no professional purpose.

(5) Where a person submits under the belief that the person
committing the act is the victim’s spouse, and this belief is induced by
any artifice, pretense, or concealment practiced by the accused, with
intent to induce the belief.

(6) Where the act is accomplished against the victim’s will by
threatening to retaliate in the future against the victim or any other
person, and there is a reasonable possibility that the perpetrator will
execute the threat. As used in this paragraph, “threatening to retaliate”
means a threat to kidnap or falsely imprison, or to inflict extreme pain,
serious bodily injury, or death.

(7) Where the act is accomplished against the victim’s will by
threatening to use the authority of a public official to incarcerate, arrest,
or deport the victim or another, and the victim has a reasonable belief that
the perpetrator is a public official. As used in this paragraph, “public
official” means a person employed by a governmental agency who has
the authority, as part of that position, to incarcerate, arrest, or deport
another. The perpetrator does not actually have to be a public official.

(b) As used in this section, “duress” means a direct or implied threat
of force, violence, danger, or retribution sufficient to coerce a reasonable
person of ordinary susceptibilities to perform an act which otherwise
would not have been performed, or acquiesce in an act to which one

otherwise would not have submitted. The total circumstances, including the age of the victim, and his or her relationship to the defendant, are factors to consider in appraising the existence of duress.

(c) As used in this section, “menace” means any threat, declaration, or act which shows an intention to inflict an injury upon another.

SEC. 3. Section 286 of the Penal Code is amended to read:

286. (a) Sodomy is sexual conduct consisting of contact between the penis of one person and the anus of another person. Any sexual penetration, however slight, is sufficient to complete the crime of sodomy.

(b) (1) Except as provided in Section 288, any person who participates in an act of sodomy with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for not more than one year.

(2) Except as provided in Section 288, any person over the age of 21 years who participates in an act of sodomy with another person who is under 16 years of age shall be guilty of a felony.

(c) (1) Any person who participates in an act of sodomy with another person who is under 14 years of age and more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(2) Any person who commits an act of sodomy when the act is accomplished against the victim’s will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.

(3) Any person who commits an act of sodomy where the act is accomplished against the victim’s will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(d) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of sodomy when the act is accomplished against the victim’s will by means of force or fear of immediate and unlawful bodily injury on the victim or another person or where the act is accomplished against the victim’s will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for five, seven, or nine years.

(e) Any person who participates in an act of sodomy with any person of any age while confined in any state prison, as defined in Section 4504, or in any local detention facility, as defined in Section 6031.4, shall be
punished by imprisonment in the state prison, or in a county jail for not more than one year.

(f) Any person who commits an act of sodomy, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years. As used in this subdivision, “unconscious of the nature of the act” means incapable of resisting because the victim meets one of the following conditions:

1. Was unconscious or asleep.
2. Was not aware, knowing, perceiving, or cognizant that the act occurred.
3. Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraud in fact.
4. Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

(g) Except as provided in subdivision (h), a person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years. Notwithstanding the existence of a conservatorship pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(h) Any person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for not more than one year. Notwithstanding the existence of a conservatorship pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.
(i) Any person who commits an act of sodomy, where the victim is prevented from resisting by an intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for three, six, or eight years.

(j) Any person who commits an act of sodomy, where the victim submits under the belief that the person committing the act is the victim’s spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for three, six, or eight years.

(k) Any person who commits an act of sodomy, where the act is accomplished against the victim’s will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for three, six, or eight years.

As used in this subdivision, “public official” means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(l) As used in subdivisions (c) and (d), “threatening to retaliate” means a threat to kidnap or falsely imprison, or inflict extreme pain, serious bodily injury, or death.

(m) In addition to any punishment imposed under this section, the judge may assess a fine not to exceed seventy dollars ($70) against any person who violates this section, with the proceeds of this fine to be used in accordance with Section 1463.23. The court, however, shall take into consideration the defendant’s ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

SEC. 4. Section 288a of the Penal Code is amended to read:

288a. (a) Oral copulation is the act of copulating the mouth of one person with the sexual organ or anus of another person.

(b) (1) Except as provided in Section 288, any person who participates in an act of oral copulation with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(2) Except as provided in Section 288, any person over the age of 21 years who participates in an act of oral copulation with another person who is under 16 years of age is guilty of a felony.

(c) (1) Any person who participates in an act of oral copulation with another person who is under 14 years of age and more than 10 years
younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(2) Any person who commits an act of oral copulation when the act is accomplished against the victim’s will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.

(3) Any person who commits an act of oral copulation where the act is accomplished against the victim’s will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(d) Any person who, while voluntarily acting in concert with another person, either personally or by aiding and abetting that other person, commits an act of oral copulation (1) when the act is accomplished against the victim’s will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, or (2) where the act is accomplished against the victim’s will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, or (3) where the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison for five, seven, or nine years. Notwithstanding the appointment of a conservator with respect to the victim pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime described under paragraph (3), that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(e) Any person who participates in an act of oral copulation while confined in any state prison, as defined in Section 4504 or in any local detention facility as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(f) Any person who commits an act of oral copulation, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for a period of three, six, or eight years. As used in this subdivision, “unconscious of the nature of the act” means incapable of resisting because the victim meets one of the following conditions:

(1) Was unconscious or asleep.
(2) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(3) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraud in fact.

(4) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraudulent representation that the oral copulation served a professional purpose when it served no professional purpose.

(g) Except as provided in subdivision (h), any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison, for three, six, or eight years. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(h) Any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(i) Any person who commits an act of oral copulation, where the victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(j) Any person who commits an act of oral copulation, where the victim submits under the belief that the person committing the act is the
victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(k) Any person who commits an act of oral copulation, where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(l) As used in subdivisions (c) and (d), "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

(m) In addition to any punishment imposed under this section, the judge may assess a fine not to exceed seventy dollars ($70) against any person who violates this section, with the proceeds of this fine to be used in accordance with Section 1463.23. The court shall, however, take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

SEC. 5. Section 289 of the Penal Code is amended to read:

289. (a) (1) Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.

(2) Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(b) Except as provided in subdivision (c), any person who commits an act of sexual penetration, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed, shall be punished by imprisonment in the state prison for three, six, or eight years. Notwithstanding the appointment of a conservator with respect to the victim pursuant to the provisions of the Lanterman-Petris-Short Act
(Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(c) Any person who commits an act of sexual penetration, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(d) Any person who commits an act of sexual penetration, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act or causing the act to be committed, shall be punished by imprisonment in the state prison for three, six, or eight years. As used in this subdivision, “unconscious of the nature of the act” means incapable of resisting because the victim meets one of the following conditions:

1. Was unconscious or asleep.
2. Was not aware, knowing, perceiving, or cognizant that the act occurred.
3. Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraud in fact.
4. Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

(e) Any person who commits an act of sexual penetration when the victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(f) Any person who commits an act of sexual penetration when the victim submits under the belief that the person committing the act or
causing the act to be committed is the victim’s spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(g) Any person who commits an act of sexual penetration when the act is accomplished against the victim’s will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

As used in this subdivision, “public official” means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(h) Except as provided in Section 288, any person who participates in an act of sexual penetration with another person who is under 18 years of age shall be punished by imprisonment in the state prison or in the county jail for a period of not more than one year.

(i) Except as provided in Section 288, any person over the age of 21 years who participates in an act of sexual penetration with another person who is under 16 years of age shall be guilty of a felony.

(j) Any person who participates in an act of sexual penetration with another person who is under 14 years of age and who is more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(k) As used in this section:

(1) “Sexual penetration” is the act of causing the penetration, however slight, of the genital or anal opening of any person or causing another person to so penetrate the defendant’s or another person’s genital or anal opening for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, or by any unknown object.

(2) “Foreign object, substance, instrument, or device” shall include any part of the body, except a sexual organ.

(3) “Unknown object” shall include any foreign object, substance, instrument, or device, or any part of the body, including a penis, when it is not known whether penetration was by a penis or by a foreign object, substance, instrument, or device, or by any other part of the body.

(l) As used in subdivision (a), “threatening to retaliate” means a threat to kidnap or falsely imprison, or inflict extreme pain, serious bodily injury or death.

(m) As used in this section, “victim” includes any person who the defendant causes to penetrate the genital or anal opening of the defendant or another person or whose genital or anal opening is caused to be
penetrated by the defendant or another person and who otherwise qualifies as a victim under the requirements of this section.

SEC. 6. 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 303

An act to amend Sections 11710 and 11722 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 28, 2002. Filed with Secretary of State August 28, 2002.]

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

SECTION 1. Section 11710 of the Vehicle Code is amended to read:

11710. (a) Before any dealer’s or remanufacturer’s license is issued or renewed by the department to any applicant therefor, the applicant shall procure and file with the department a bond executed by an admitted surety insurer, approved as to form by the Attorney General, and conditioned that the applicant shall not practice any fraud or make any fraudulent representation which will cause a monetary loss to a purchaser, seller, financing agency, or governmental agency.

(b) A dealer’s bond shall be in the amount of fifty thousand dollars ($50,000), except the bond of a dealer who deals exclusively in motorcycles shall be in the amount of ten thousand dollars ($10,000). Before the license is renewed by the department, the dealer, other than a dealer who deals exclusively in motorcycles, shall procure and file a bond in the amount of fifty thousand dollars ($50,000). A remanufacturer bond shall be in the amount of fifty thousand dollars ($50,000).

(c) Liability under the bond is to remain at full value. If the amount of liability under the bond is decreased or there is outstanding a final court judgment for which the dealer or remanufacturer and sureties are liable, the dealer’s or remanufacturer’s license shall be automatically suspended. In order to reinstate the license and special plates, the licensee shall either file an additional bond or restore the bond on file to
the original amount, or shall terminate the outstanding judgment for which the dealer or remanufacturer and sureties are liable.

(d) A dealer’s or remanufacturer’s license, or renewal of the license, shall not be issued to any applicant therefor, unless and until the applicant files with the department a good and sufficient instrument, in writing, in which the applicant appoints the director as the true and lawful agent of the applicant upon whom all process may be served in any action, or actions, which may thereafter be commenced against the applicant, arising out of any claim for damages suffered by any firm, person, association, or corporation, by reason of the violation of the applicant of any of the terms and provisions of this code or any condition of the dealer’s or remanufacturer’s bond. The applicant shall stipulate and agree in the appointment that any process directed to the applicant, when personal service of process upon the applicant cannot be made in this state after due diligence and, in that case, is served upon the director or, in the event of the director’s absence from the office, upon any employee in charge of the office of the director, shall be of the same legal force and effect as if served upon the applicant personally. The applicant shall further stipulate and agree, in writing, that the agency created by the appointment shall continue for and during the period covered by any license that may be issued and so long thereafter as the applicant may be made to answer in damages for a violation of this code or any condition of the bond. The instrument appointing the director as the agent for the applicant for service of process shall be acknowledged by the applicant before a notary public. In any case where the licensee is served with process by service upon the director, one copy of the summons and complaint shall be left with the director or in the director’s office in Sacramento or mailed to the office of the director in Sacramento. A fee of five dollars ($5) shall also be paid to the director at the time of service of the copy of the summons and complaint. Service on the director shall be a sufficient service on the licensee if a notice of service and a copy of the summons and complaint are immediately sent by registered mail by the plaintiff or the plaintiff’s attorney to the licensee. A copy of the summons and complaint shall also be mailed by the plaintiff or the plaintiff’s attorney to the surety on the applicant’s bond at the address of the surety given in the bond, postpaid and registered with request for return receipt. The director shall keep a record of all process so served upon the director, which record shall show the day and hour of service and shall retain the summons and complaint so served on file. Where the licensee is served with process by service upon the director, the licensee shall have and be allowed 30 days from and after the service within which to answer any complaint or other pleading which may be filed in the cause. However, for purposes of venue, where the licensee is served with process by service upon the director, the service is deemed to have
been made upon the licensee in the county in which the licensee has or last had an established place of business.

SEC. 2. Section 11722 of the Vehicle Code is amended to read:

11722. Claims, against the surety upon a dealer’s bond, of a financing agency that has loaned money to a licensee or assignee thereof shall be allowed only to the extent that the claims of any other person or entity with respect to the bond under Section 11711 shall be satisfied first and entitled to preference over the claims of the financing agency with respect to the bond; provided, however, that as to any conditional sales contract as defined in Section 2981 of the Civil Code, acquired by way of purchase or pledge, a financing agency shall be entitled to protection under the bond with the same preference set forth under Section 11711 if the financing agency is defrauded by a licensee.

CHAPTER 304

An act to amend Section 4502 of the Family Code, relating to support.

[Approved by Governor August 28, 2002. Filed with Secretary of State August 28, 2002.]

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

SECTION 1. Section 4502 of the Family Code is amended to read:

4502. (a) Notwithstanding any other provision of law, a judgment for child, family, or spousal support, including a judgment for reimbursement that includes, but is not limited to, reimbursement arising under Section 17402 or other arrearages, including all lawful interest and penalties computed thereon, is enforceable until paid in full and is exempt from any requirement that judgments be renewed.

(b) Although not required, a judgment described in subdivision (a) may be renewed pursuant to the procedure applicable to money judgments generally under Article 2 (commencing with Section 683.110) of Chapter 3 of Division 1 of Title 9 of Part 2 of the Code of Civil Procedure. As provided in subdivision (a), the option of renewing the judgment has no effect on the enforceability of the amount due. An application for renewal of a judgment described in subdivision (a), whether or not payable in installments, may be filed:

(1) If the judgment has not previously been renewed as to past due amounts, at any time.

(2) If the judgment has previously been renewed the amount of the judgment as previously renewed and any past due amount that became due and payable after the previous renewal may be renewed at any time
after a period of at least five years has elapsed from the time the judgment was previously renewed.

(c) In an action to enforce a judgment for child, family, or spousal support, the defendant may raise, and the court may consider, the defense of laches only with respect to any portion of the judgment owed to the state.

CHAPTER 305

An act to amend Section 3118 of the Family Code and to amend Section 827 of the Welfare and Institutions Code, relating to child custody.

[Approved by Governor August 28, 2002. Filed with Secretary of State August 28, 2002.]

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

SECTION 1. Section 3118 of the Family Code is amended to read:

3118. (a) In any contested proceeding involving child custody or visitation rights, where the court has appointed a child custody evaluator or has referred a case for a full or partial court-connected evaluation, investigation, or assessment, and the court determines that there is a serious allegation of child sexual abuse, the court shall require an evaluation, investigation, or assessment pursuant to this section. When the court has determined that there is a serious allegation of child sexual abuse, any child custody evaluation, investigation, or assessment conducted subsequent to that determination shall be considered by the court only if the evaluation, investigation, or assessment is conducted in accordance with the minimum requirements set forth in this section in determining custody or visitation rights, except as specified in paragraph (1). For purposes of this section, a serious allegation of child sexual abuse means an allegation of child sexual abuse, as defined in Section 11165.1 of the Penal Code, that is based in whole or in part on statements made by the child to law enforcement, a child welfare services agency investigator, any person required by statute to report suspected child abuse, or any other court-appointed personnel, or that is supported by substantial independent corroboration as provided for in subdivision (b) of Section 3011. When an allegation of child abuse arises in any other circumstances in any proceeding involving child custody or visitation rights, the court may require an evaluator or investigator to conduct an evaluation, investigation, or assessment pursuant to this section. The order appointing a child custody evaluator or investigator pursuant to
this section shall provide that the evaluator or investigator have access to all juvenile court records pertaining to the child who is the subject of the evaluation, investigation, or assessment. The order shall also provide that any juvenile court records or information gained from those records remain confidential and shall only be released as specified in Section 3111.

(1) This section does not apply to any emergency court-ordered partial investigation that is conducted for the purpose of assisting the court in determining what immediate temporary orders may be necessary to protect and meet the immediate needs of a child. This section does apply when the emergency is resolved and the court is considering permanent child custody or visitation orders.

(2) This section does not prohibit a court from considering evidence relevant to determining the safety and protection needs of the child.

(3) Any evaluation, investigation, or assessment conducted pursuant to this section is to be conducted by an evaluator or investigator who meets the qualifications set forth in Section 3110.5.

(b) The evaluator or investigator shall, at a minimum, do all of the following:

(1) Consult with the agency providing child welfare services and law enforcement regarding the allegations of child sexual abuse, and obtain recommendations from these professionals regarding the child’s safety and the child’s need for protection.

(2) Review and summarize the child welfare services agency file. No document contained in the child welfare services agency file shall be photocopied, but a summary of the information in the file, including statements made by the children and the parents, and the recommendations made or anticipated to be made by the child welfare services agency to the juvenile court, may be recorded by the evaluator or investigator, except for the identity of the reporting party. The evaluator’s or investigator’s notes summarizing the child welfare services agency information shall be stored in a file separate from the evaluator’s or investigator’s file and may only be released to either party under order of the court.

(3) Obtain from a law enforcement investigator all available information obtained from criminal background checks of the parents and any suspected perpetrator that is not a parent, including information regarding child abuse, domestic violence, or substance abuse.

(4) Review the results of a multidisciplinary child interview team (hereafter MDIT) interview if available, or if not, or if the evaluator or investigator believes the MDIT interview is inadequate for purposes of the evaluation, investigation, or assessment interview the child or request an MDIT interview, and shall wherever possible avoid repeated interviews of the child.
(5) Request a forensic medical examination of the child from the appropriate agency, or include in the report required by paragraph (6) a written statement explaining why the examination is not needed.

(6) File a confidential written report with the clerk of the court in which the custody hearing will be conducted and which shall be served on the parties or their attorneys at least 10 days prior to the hearing. This report shall not be made available other than as provided in this subdivision. This report shall include, but is not limited to, the following:

(A) Documentation of material interviews, including any MDIT interview of the child or the evaluator or investigator, written documentation of interviews with both parents by the evaluator or investigator, and interviews with other witnesses who provided relevant information.

(B) A summary of any law enforcement investigator’s investigation, including information obtained from the criminal background check of the parents and any suspected perpetrator that is not a parent, including information regarding child abuse, domestic violence, or substance abuse.

(C) Relevant background material including, but not limited to, a summary of a written report from any therapist treating the child for suspected child sexual abuse, excluding any communication subject to Section 1014 of the Evidence Code, reports from other professionals, and the results of any forensic medical examination and any other medical examination or treatment that could help establish or disprove whether the child has been the victim of sexual abuse.

(D) The written recommendations of the evaluator or investigator regarding the therapeutic needs of the child and how to ensure the safety of the child.

(E) A summary of the following information: whether the child and his or her parents are or have been the subject of a child abuse investigation and the disposition of that investigation; the name, location, and telephone number of the children’s services worker; the status of the investigation and the recommendations made or anticipated to be made regarding the child’s safety; and any dependency court orders or findings that might have a bearing on the custody dispute.

(F) Any information regarding the presence of domestic violence or substance abuse in the family that has been obtained from a child protective agency in accordance with paragraphs (1) and (2), a law enforcement agency, medical personnel or records, prior or currently treating therapists, excluding any communication subject to Section 1014 of the Evidence Code, or from interviews conducted or reviewed for this evaluation, investigation, or assessment.
(G) Which, if any, family members are known to have been deemed eligible for assistance from the Victims of Crime Program due to child abuse or domestic violence.

(H) Any other information the evaluator or investigator believes would be helpful to the court in determining what is in the best interests of the child.

(c) If the evaluator or investigator obtains information as part of a family court mediation, that information shall be maintained in the family court file, which shall not be subject to subpoena by either party. If, however, the members of the family are the subject of an ongoing child welfare services investigation, or the evaluator or investigator has made a child welfare services referral, the evaluator or investigator shall so inform the family law judicial officer in writing and this information shall become part of the family law file. This subdivision shall not be construed to authorize or require a mediator to disclose any information not otherwise authorized or required by law to be disclosed.

(d) In accordance with subdivision (d) of Section 11167 of the Penal Code, the evaluator or investigator may not disclose any information regarding the identity of any person making a report of suspected child abuse. Nothing in this section is intended to limit any disclosure of information by any agency that is otherwise required by law or court order.

(e) The evaluation, investigation, or assessment standards set forth in this section represent minimum requirements of evaluation and the court shall order further evaluation beyond these minimum requirements when necessary to determine the safety needs of the child.

(f) If the court orders an evaluation, investigation, or assessment pursuant to this section, the court shall consider whether the best interest of the child requires that a temporary order be issued that limits visitation with the parent against whom the allegations have been made to situations in which a third person specified by the court is present or whether visitation will be suspended or denied in accordance with Section 3011.

(g) An evaluation, investigation, or assessment pursuant to this section shall be suspended if a petition is filed to declare the child a dependent child of the juvenile court pursuant to Section 300 of the Welfare and Institutions Code, and all information gathered by the evaluator or investigator shall be made available to the juvenile court.

(h) This section shall not be construed to authorize a court to issue any orders in a proceeding pursuant to this division regarding custody or visitation with respect to a minor child who is the subject of a dependency hearing in juvenile court or to otherwise supersede Section 302 of the Welfare and Institutions Code.
SEC. 2. Section 827 of the Welfare and Institutions Code is amended to read:

827. (a) (1) Except as provided in Section 828, a case file may be inspected only by the following:

(A) Court personnel.

(B) The district attorney, a city attorney, or city prosecutor authorized to prosecute criminal or juvenile cases under state law.

(C) The minor who is the subject of the proceeding.

(D) His or her parents or guardian.

(E) The attorneys for the parties, and judges, referees, other hearing officers, probation officers and law enforcement officers who are actively participating in criminal or juvenile proceedings involving the minor.

(F) The superintendent or designee of the school district where the minor is enrolled or attending school.

(G) Members of the child protective agencies as defined in Section 11165.9 of the Penal Code.

(H) The State Department of Social Services to carry out its duties pursuant to Division 9 (commencing with Section 10000), and Part 5 (commencing with Section 7900) of Division 12 of the Family Code to oversee and monitor county child welfare agencies, children in foster care or receiving foster care assistance, and out-of-state placements.

(I) To authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of, the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate community care facilities, and to ensure that the standards of care and services provided in those facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facilities are subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 3 (commencing with Section 1500) and Chapter 3.4 (commencing with Section 1596.70) of Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names that are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department
of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Social Services shall not contain the name of the minor.

(J) Members of children’s multidisciplinary teams, persons or agencies providing treatment or supervision of the minor.

(K) A judge, commissioner, or other hearing officer assigned to a family law case with issues concerning custody or visitation, or both, involving the minor, and the following persons, if actively participating in the family law case: a family court mediator assigned to a case involving the minor pursuant to Article 1 (commencing with Section 3160) of Chapter 11 of Part 2 of Division 8 of the Family Code, a court-appointed evaluator or a person conducting a court-connected child custody evaluation, investigation, or assessment pursuant to Section 3118 of the Family Code, and counsel appointed for the minor in the family law case pursuant to Section 3150 of the Family Code. Prior to allowing counsel appointed for the minor in the family law case to inspect the file, the court clerk may require counsel to provide a certified copy of the court order appointing him or her as the minor’s counsel.

(L) Juvenile justice commissions as established under Section 225. The confidentiality provisions of Section 10850 shall apply to a juvenile justice commission and its members.

(M) Any other person who may be designated by court order of the judge of the juvenile court upon filing a petition.

(2) Notwithstanding any other law and subject to subparagraph (A) of paragraph (3), juvenile case files, except those relating to matters within the jurisdiction of the court pursuant to Section 601 or 602, which pertain to a deceased child who was within the jurisdiction of the juvenile court pursuant to Section 300, shall be released to the public pursuant to an order by the juvenile court after a petition has been filed and interested parties have been afforded an opportunity to file an objection. Any information relating to another child or which could identify another child, except for information about the deceased, shall be redacted from the juvenile case file prior to release, unless a specific order is made by the juvenile court to the contrary. Except as provided in this paragraph, the presiding judge of the juvenile court may issue an order prohibiting or limiting access to the juvenile case file, or any portion thereof, of a deceased child only upon a showing that release of the juvenile case file or any portion thereof is detrimental to the safety, protection, or physical, or emotional well-being of another child who is directly or indirectly connected to the juvenile case that is the subject of the petition.
(3) Access to juvenile case files pertaining to matters within the jurisdiction of the juvenile court pursuant to Section 300 shall be limited as follows:

(A) If a juvenile case file, or any portion thereof, is privileged or confidential pursuant to any other state law or federal law or regulation, the requirements of that state law or federal law or regulation prohibiting or limiting release of the juvenile case file or any portions thereof shall prevail. Unless a person is listed in subparagraphs (A) to (L), inclusive, of paragraph (1) and is entitled to access under the other state law or federal law or regulation without a court order, all those seeking access, pursuant to other authorization, to portions of, or information relating to the contents of, juvenile case files protected under another state law or federal law or regulation, shall petition the juvenile court. The juvenile court may only release the portion of, or information relating to the contents of, juvenile case files protected by another state law or federal law or regulation if disclosure is not detrimental to the safety, protection, or physical or emotional well-being of a child who is directly or indirectly connected to the juvenile case that is the subject of the petition. This paragraph shall not be construed to limit the ability of the juvenile court to carry out its duties in conducting juvenile court proceedings.

(B) Prior to the release of the juvenile case file or any portion thereof, the court shall afford due process, including a notice of and an opportunity to file an objection to the release of the record or report to all interested parties.

(4) A juvenile case file, any portion thereof, and information relating to the content of the juvenile case file, shall not be disseminated by the receiving agencies to any persons or agencies, other than those persons or agencies authorized to receive documents pursuant to this section. Further, a juvenile case file, any portion thereof, and information relating to the content of the juvenile case file, shall not be made as an attachment to any other documents without the prior approval of the presiding judge of the juvenile court, unless it is used in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

(b) (1) While the Legislature reaffirms its belief that juvenile court records, in general, should be confidential, it is the intent of the Legislature in enacting this subdivision to provide for a limited exception to juvenile court record confidentiality to promote more effective communication among juvenile courts, family courts, law enforcement agencies, and schools to ensure the rehabilitation of juvenile criminal offenders as well as to lessen the potential for drug use, violence, other forms of delinquency, and child abuse.

(2) Notwithstanding subdivision (a), written notice that a minor enrolled in a public school, kindergarten to grade 12, inclusive, has been
found by a court of competent jurisdiction to have committed any felony or any misdemeanor involving curfew, gambling, alcohol, drugs, tobacco products, carrying of weapons, a sex offense listed in Section 290 of the Penal Code, assault or battery, larceny, vandalism, or graffiti shall be provided by the court, within seven days, to the superintendent of the school district of attendance. Written notice shall include only the offense found to have been committed by the minor and the disposition of the minor’s case. This notice shall be expeditiously transmitted by the district superintendent to the principal at the school of attendance. The principal shall expeditiously disseminate the information to those counselors directly supervising or reporting on the behavior or progress of the minor. In addition, the principal shall disseminate the information to any teacher or administrator directly supervising or reporting on the behavior or progress of the minor whom the principal believes needs the information to work with the pupil in an appropriate fashion, to avoid being needlessly vulnerable or to protect other persons from needless vulnerability.

Any information received by a teacher, counselor, or administrator under this subdivision shall be received in confidence for the limited purpose of rehabilitating the minor and protecting students and staff, and shall not be further disseminated by the teacher, counselor, or administrator, except insofar as communication with the juvenile, his or her parents or guardians, law enforcement personnel, and the juvenile’s probation officer is necessary to effectuate the juvenile’s rehabilitation or to protect students and staff.

An intentional violation of the confidentiality provisions of this paragraph is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

(3) If a minor is removed from public school as a result of the court’s finding described in subdivision (b), the superintendent shall maintain the information in a confidential file and shall defer transmittal of the information received from the court until the minor is returned to public school. If the minor is returned to a school district other than the one from which the minor came, the parole or probation officer having jurisdiction over the minor shall so notify the superintendent of the last district of attendance, who shall transmit the notice received from the court to the superintendent of the new district of attendance.

(c) Each probation report filed with the court concerning a minor whose record is subject to dissemination pursuant to subdivision (b) shall include on the face sheet the school at which the minor is currently enrolled. The county superintendent shall provide the court with a listing of all of the schools within each school district, within the county, along with the name and mailing address of each district superintendent.
(d) Each notice sent by the court pursuant to subdivision (b) shall be stamped with the instruction: “Unlawful Dissemination Of This Information Is A Misdemeanor.” Any information received from the court shall be kept in a separate confidential file at the school of attendance and shall be transferred to the minor’s subsequent schools of attendance and maintained until the minor graduates from high school, is released from juvenile court jurisdiction, or reaches the age of 18, whichever occurs first. After that time the confidential record shall be destroyed. At any time after the date by which a record required to be destroyed by this section should have been destroyed, the minor or his or her parent or guardian shall have the right to make a written request to the principal of the school that the minor’s school records be reviewed to ensure that the record has been destroyed. Upon completion of any requested review and no later than 30 days after the request for the review was received, the principal or his or her designee shall respond in writing to the written request and either shall confirm that the record has been destroyed or, if the record has not been destroyed, shall explain why destruction has not yet occurred.

Except as provided in paragraph (2) of subdivision (b), no liability shall attach to any person who transmits or fails to transmit any notice or information required under subdivision (b).

(e) For purposes of this section, a “juvenile case file” means a petition filed in any juvenile court proceeding, reports of the probation officer, and all other documents filed in that case or made available to the probation officer in making his or her report, or to the judge, referee, or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer.

SEC. 3. Section 827 of the Welfare and Institutions Code is amended to read:

827. (a) (1) Except as provided in Section 828, a case file may be inspected only by the following:

(A) Court personnel.

(B) The district attorney, a city attorney, or city prosecutor authorized to prosecute criminal or juvenile cases under state law.

(C) The minor who is the subject of the proceeding.

(D) His or her parents or guardian.

(E) The attorneys for the parties, including attorneys who represent persons who are, or have been, the subjects of petitions pursuant to Section 300, 601, or 602 for the purpose of other administrative or judicial proceedings, and judges, referees, other hearing officers, probation officers and law enforcement officers who are actively participating in criminal or juvenile proceedings involving the minor.

(F) The superintendent or designee of the school district where the minor is enrolled or attending school.
(G) Members of the child protective agencies as defined in Section 11165.9 of the Penal Code.

(H) The State Department of Social Services to carry out its duties pursuant to Division 9 (commencing with Section 10000), and Part 5 (commencing with Section 7900) of Division 12 of the Family Code to oversee and monitor county child welfare agencies, children in foster care or receiving foster care assistance, and out-of-state placements.

(I) To authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of, the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate community care facilities, and to ensure that the standards of care and services provided in those facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facilities are subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 3 (commencing with Section 1500) and Chapter 3.4 (commencing with Section 1596.70) of Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names that are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Social Services shall not contain the name of the minor.

(J) Members of children’s multidisciplinary teams, persons or agencies providing treatment or supervision of the minor.

(K) A judge, commissioner, or other hearing officer assigned to a family law case with issues concerning custody or visitation, or both, involving the minor, and the following persons, if actively participating in the family law case: a family court mediator assigned to a case involving the minor pursuant to Article 1 (commencing with Section 3160) of Chapter 11 of Part 2 of Division 8 of the Family Code, a court-appointed evaluator or a person conducting a count-connected child custody evaluation, investigation, or assessment pursuant to
Section 3118 of the Family Code, and counsel appointed for the minor in the family law case pursuant to Section 3150 of the Family Code. Prior to allowing counsel appointed for the minor in the family law case to inspect the file, the court clerk may require counsel to provide a certified copy of the court order appointing him or her as the minor’s counsel.

(L) Juvenile justice commissions as established under Section 225. The confidentiality provisions of Section 10850 shall apply to a juvenile justice commission and its members.

(M) Any other person who may be designated by court order of the judge of the juvenile court upon filing a petition.

(2) Notwithstanding any other law and subject to subparagraph (A) of paragraph (3), juvenile case files, except those relating to matters within the jurisdiction of the court pursuant to Section 601 or 602, which pertain to a deceased child who was within the jurisdiction of the juvenile court pursuant to Section 300, shall be released to the public pursuant to an order by the juvenile court after a petition has been filed and interested parties have been afforded an opportunity to file an objection. Any information relating to another child or which could identify another child, except for information about the deceased, shall be redacted from the juvenile case file prior to release, unless a specific order is made by the juvenile court to the contrary. Except as provided in this paragraph, the presiding judge of the juvenile court may issue an order prohibiting or limiting access to the juvenile case file, or any portion thereof, of a deceased child only upon a showing that release of the juvenile case file or any portion thereof is detrimental to the safety, protection, or physical, or emotional well-being of another child who is directly or indirectly connected to the juvenile case that is the subject of the petition.

(3) Access to juvenile case files pertaining to matters within the jurisdiction of the juvenile court pursuant to Section 300 shall be limited as follows:

(A) If a juvenile case file, or any portion thereof, is privileged or confidential pursuant to any other state law or federal law or regulation, the requirements of that state law or federal law or regulation prohibiting or limiting release of the juvenile case file or any portions thereof shall prevail. Unless a person is listed in subparagraphs (A) to (L), inclusive, of paragraph (1) and is entitled to access under the other state law or federal law or regulation without a court order, all those seeking access, pursuant to other authorization, to portions of, or information relating to the contents of, juvenile case files protected under another state law or federal law or regulation, shall petition the juvenile court. The juvenile court may only release the portion of, or information relating to the contents of, juvenile case files protected by another state law or federal law or regulation if disclosure is not detrimental to the safety, protection,
or physical or emotional well-being of a child who is directly or indirectly connected to the juvenile case that is the subject of the petition. This paragraph shall not be construed to limit the ability of the juvenile court to carry out its duties in conducting juvenile court proceedings.

(B) Prior to the release of the juvenile case file or any portion thereof, the court shall afford due process, including a notice of and an opportunity to file an objection to the release of the record or report to all interested parties.

(4) A juvenile case file, any portion thereof, and information relating to the content of the juvenile case file, shall not be disseminated by the receiving agencies to any persons or agencies, other than those persons or agencies authorized to receive documents pursuant to this section. Further, a juvenile case file, any portion thereof, and information relating to the content of the juvenile case file, shall not be made as an attachment to any other documents without the prior approval of the presiding judge of the juvenile court, unless it is used in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

(b) (1) While the Legislature reaffirms its belief that juvenile court records, in general, should be confidential, it is the intent of the Legislature in enacting this subdivision to provide for a limited exception to juvenile court record confidentiality to promote more effective communication among juvenile courts, family courts, law enforcement agencies, and schools to ensure the rehabilitation of juvenile criminal offenders as well as to lessen the potential for drug use, violence, other forms of delinquency, and child abuse.

(2) Notwithstanding subdivision (a), written notice that a minor enrolled in a public school, kindergarten to grade 12, inclusive, has been found by a court of competent jurisdiction to have committed any felony or any misdemeanor involving curfew, gambling, alcohol, drugs, tobacco products, carrying of weapons, a sex offense listed in Section 290 of the Penal Code, assault or battery, larceny, vandalism, or graffiti shall be provided by the court, within seven days, to the superintendent of the school district of attendance. Written notice shall include only the offense found to have been committed by the minor and the disposition of the minor’s case. This notice shall be expeditiously transmitted by the district superintendent to the principal at the school of attendance. The principal shall expeditiously disseminate the information to those counselors directly supervising or reporting on the behavior or progress of the minor. In addition, the principal shall disseminate the information to any teacher or administrator directly supervising or reporting on the behavior or progress of the minor whom the principal believes needs the information to work with the pupil in an appropriate fashion, to avoid
being needlessly vulnerable or to protect other persons from needless vulnerability.

Any information received by a teacher, counselor, or administrator under this subdivision shall be received in confidence for the limited purpose of rehabilitating the minor and protecting students and staff, and shall not be further disseminated by the teacher, counselor, or administrator, except insofar as communication with the juvenile, his or her parents or guardians, law enforcement personnel, and the juvenile’s probation officer is necessary to effectuate the juvenile’s rehabilitation or to protect students and staff.

An intentional violation of the confidentiality provisions of this paragraph is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

(3) If a minor is removed from public school as a result of the court’s finding described in subdivision (b), the superintendent shall maintain the information in a confidential file and shall defer transmittal of the information received from the court until the minor is returned to public school. If the minor is returned to a school district other than the one from which the minor came, the parole or probation officer having jurisdiction over the minor shall so notify the superintendent of the last district of attendance, who shall transmit the notice received from the court to the superintendent of the new district of attendance.

(c) Each probation report filed with the court concerning a minor whose record is subject to dissemination pursuant to subdivision (b) shall include on the face sheet the school at which the minor is currently enrolled. The county superintendent shall provide the court with a listing of all of the schools within each school district, within the county, along with the name and mailing address of each district superintendent.

(d) Each notice sent by the court pursuant to subdivision (b) shall be stamped with the instruction: “Unlawful Dissemination Of This Information Is A Misdemeanor.” Any information received from the court shall be kept in a separate confidential file at the school of attendance and shall be transferred to the minor’s subsequent schools of attendance and maintained until the minor graduates from high school, is released from juvenile court jurisdiction, or reaches the age of 18, whichever occurs first. After that time the confidential record shall be destroyed. At any time after the date by which a record required to be destroyed by this section should have been destroyed, the minor or his or her parent or guardian shall have the right to make a written request to the principal of the school that the minor’s school records be reviewed to ensure that the record has been destroyed. Upon completion of any requested review and no later than 30 days after the request for the review was received, the principal or his or her designee shall respond in writing to the written request and either shall confirm that the record has been
destroyed or, if the record has not been destroyed, shall explain why destruction has not yet occurred.

Except as provided in paragraph (2) of subdivision (b), no liability shall attach to any person who transmits or fails to transmit any notice or information required under subdivision (b).

(e) For purposes of this section, a “juvenile case file” means a petition filed in any juvenile court proceeding, reports of the probation officer, and all other documents filed in that case or made available to the probation officer in making his or her report, or to the judge, referee, or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer.

SEC. 4. Section 3 of this bill incorporates amendments to Section 827 of the Welfare and Institutions Code proposed by both this bill and AB 3028. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2003, (2) each bill amends Section 827 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 3028, in which case Section 2 of this bill shall not become operative.

CHAPTER 306

An act to amend Section 1793.1 of the Civil Code, relating to consumers.

[Approved by Governor August 28, 2002. Filed with Secretary of State August 28, 2002.]

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

SECTION 1. Section 1793.1 of the Civil Code is amended to read:

1793.1. (a) (1) Every manufacturer, distributor, or retailer making express warranties with respect to consumer goods shall fully set forth those warranties in simple and readily understood language, which shall clearly identify the party making the express warranties, and which shall conform to the federal standards for disclosure of warranty terms and conditions set forth in the federal Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (15 U.S.C. Sec. 2301 et seq.), and in the regulations of the Federal Trade Commission adopted pursuant to the provisions of that act. If the manufacturer, distributor, or retailer provides a warranty or product registration card or form, or an electronic online warranty or product registration form, to be completed and returned by the consumer, the card or form shall contain statements, each displayed in a clear and conspicuous manner, that do all of the following:
(A) Informs the consumer that the card or form is for product registration.

(B) Informs the consumer that failure to complete and return the card or form does not diminish his or her warranty rights.

(2) Every work order or repair invoice for warranty repairs or service shall clearly and conspicuously incorporate in 10-point boldface type the following statement either on the face of the work order or repair invoice, or on the reverse side, or on an attachment to the work order or repair invoice: “A buyer of this product in California has the right to have this product serviced or repaired during the warranty period. The warranty period will be extended for the number of whole days that the product has been out of the buyer’s hands for warranty repairs. If a defect exists within the warranty period, the warranty will not expire until the defect has been fixed. The warranty period will also be extended if the warranty repairs have not been performed due to delays caused by circumstances beyond the control of the buyer, or if the warranty repairs did not remedy the defect and the buyer notifies the manufacturer or seller of the failure of the repairs within 60 days after they were completed. If, after a reasonable number of attempts, the defect has not been fixed, the buyer may return this product for a replacement or a refund subject, in either case, to deduction of a reasonable charge for usage. This time extension does not affect the protections or remedies the buyer has under other laws.”

If the required notice is placed on the reverse side of the work order or repair invoice, the face of the work order or repair invoice shall include the following notice in 10-point boldface type: “Notice to Consumer: Please read important information on back.”

A copy of the work order or repair invoice and any attachment shall be presented to the buyer at the time that warranty service or repairs are made.

(b) No warranty or product registration card or form, or an electronic online warranty or product registration form, may be labeled as a warranty registration or a warranty confirmation.

(c) The requirements imposed by this section on the distribution of any warranty or product registration card or form, or an electronic online warranty or product registration form, shall become effective on January 1, 2004.

(d) This section does not apply to any warranty or product registration card or form that was printed prior to January 1, 2004, and was shipped or included with a product that was placed in the stream of commerce prior to January 1, 2004.

(e) Every manufacturer, distributor, or retailer making express warranties and who elects to maintain service and repair facilities within
this state pursuant to this chapter shall perform one or more of the following:

(1) At the time of sale, provide the buyer with the name and address of each service and repair facility within this state.

(2) At the time of the sale, provide the buyer with the name and address and telephone number of a service and repair facility central directory within this state, or the toll-free telephone number of a service and repair facility central directory outside this state. It shall be the duty of the central directory to provide, upon inquiry, the name and address of the authorized service and repair facility nearest the buyer.

(3) Maintain at the premises of retail sellers of the warrantor’s consumer goods a current listing of the warrantor’s authorized service and repair facilities, or retail sellers to whom the consumer goods are to be returned for service and repair, whichever is applicable, within this state. It shall be the duty of every retail seller provided with that listing to provide, on inquiry, the name, address, and telephone number of the nearest authorized service and repair facility, or the retail seller to whom the consumer goods are to be returned for service and repair, whichever is applicable.

CHAPTER 307

An act to amend Section 15363.10 of the Government Code, relating to economic development.

[Approved by Governor August 28, 2002. Filed with Secretary of State August 28, 2002.]

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

SECTION 1. Section 15363.10 of the Government Code is amended to read:

15363.10. (a) The secretary shall lead the preparation of a biennial California Economic Development Strategic Plan. In fulfilling this duty, the secretary shall do the following:

(1) Review the recommendations made by the California Economic Strategy Panel in their biennial economic development strategic plan document. This document shall make recommendations regarding an economic development strategic plan for the state, covering a two-year time period and containing a statement of economic goals for the state, a prioritized list identifying significant issues learned from economic development strategic plan panel meetings, proposals for legislation, regulations, and administrative reforms necessary to improve the
business climate and economy of the state, evaluation of the effectiveness of the state’s economic development programs, a list of key industries in which the state shall focus its economic development efforts, and strategies to foster job growth and economic development covering all state agencies, offices, boards, and commissions that have economic development responsibilities.

(2) Convene a biennial economic strategy panel to provide recommendations regarding a California economic development strategic plan. This panel shall conduct meetings in Sacramento, all cities of the state with populations over 500,000, and in major cities of other regions of California as designated by the secretary. The secretary shall invite businesses, labor unions, organizations representing the interests of diverse ethnic and gender groups, local government leaders, academic economists and business professors, chambers of commerce and other business organizations, government agencies, and key industries to contribute to the preparation of the recommended economic strategy. These meetings shall address at least the following matters of concern:

(A) Strengths and weaknesses of the California economy and the state’s prospects for future economic prosperity.
(B) Emerging and declining industries in California and elsewhere.
(C) Effectiveness of California’s economic development programs in creating and retaining jobs and attracting industries.
(D) Adequacy of state and local physical and economic infrastructure.

(E) Government impediments to economic development.

(b) The panel shall be composed of the following 15 members:
(1) The Secretary of Technology, Trade, and Commerce, who shall serve as chair of the panel.
(2) Eight persons appointed by the Governor.
(3) The Speaker of the Assembly or his or her designee.
(4) The President pro Tempore of the Senate or his or her designee.
(5) The Minority Leader of the Assembly or his or her designee.
(6) The Minority Leader of the Senate or his or her designee.
(7) One person appointed by the Speaker of the Assembly.
(8) One person appointed by the Senate Committee on Rules.
(c) The panel shall be representative of state government, business, labor, finance, and academic institutions, and shall be broadly reflective of the state’s population as to gender, ethnicity, and geographic residence within California.

At least one-half of all the persons on the panel shall be from the private sector and at least two appointments shall be from private businesses with less than 50 employees. At least two appointments shall be from rural areas of the state. Beginning January 1, 2003,
appointments to the panel shall be for four-year terms, except that the Governor’s appointments made pursuant to paragraph (2) of subdivision (b) shall be made as follows:

1. Four members shall be appointed on January 1, 2003, and every four years thereafter.
2. Four members shall be appointed on January 1, 2003, for a two-year term.
3. Upon the expiration of the initial appointments made pursuant to paragraph (2), four members shall be appointed on January 1, 2005, and every four years thereafter.

(d) The secretary shall deliver copies of the economic strategy panel’s recommended California economic development strategic plan to every constitutional officer, legislator, member of the Governor’s cabinet, members of the economic development strategic plan panel, and every state agency, office, board, and commission having economic development responsibilities.

(e) In each succeeding two-year cycle, the secretary shall undertake this process anew, so as to update the economic strategy on or before October 31 of each succeeding second year.

CHAPTER 308

An act to amend Section 709 of, and to add Section 884 to, the Public Utilities Code, relating to public utilities.

[Approved by Governor August 28, 2002. Filed with Secretary of State August 28, 2002.]

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

SECTION 1. Section 709 of the Public Utilities Code is amended to read:

709. The Legislature hereby finds and declares that the policies for telecommunications in California are as follows:

(a) To continue our universal service commitment by assuring the continued affordability and widespread availability of high-quality telecommunications services to all Californians.

(b) To focus efforts on providing educational institutions, health care institutions, community-based organizations, and governmental institutions with access to advanced telecommunications services in recognition of their economic and societal impact.

(c) To encourage the development and deployment of new technologies and the equitable provision of services in a way that
efficiently meets consumer need and encourages the ubiquitous availability of a wide choice of state-of-the-art services.

(d) To promote economic growth, job creation, and the substantial social benefits that will result from the rapid implementation of advanced information and communications technologies by adequate long-term investment in the necessary infrastructure.

(e) To promote lower prices, broader consumer choice, and avoidance of anticompetitive conduct.

(f) To remove the barriers to open and competitive markets and promote fair product and price competition in a way that encourages greater efficiency, lower prices, and more consumer choice.

SEC. 2. Section 709 of the Public Utilities Code is amended to read:

709. The Legislature hereby finds and declares that the policies for telecommunications in California are as follows:

(a) To continue our universal service commitment by assuring the continued affordability and widespread availability of high-quality telecommunications services to all Californians.

(b) To focus efforts on providing educational institutions, health care institutions, community-based organizations, and governmental institutions with access to advanced telecommunications services in recognition of their economic and societal impact.

(c) To encourage the development and deployment of new technologies and the equitable provision of services in a way that efficiently meets consumer need and encourages the ubiquitous availability of a wide choice of state-of-the-art services.

(d) To assist in bridging the "digital divide" by encouraging expanded access to state-of-the-art technologies for rural, inner-city, low-income, and disabled Californians.

(e) To promote economic growth, job creation, and the substantial social benefits that will result from the rapid implementation of advanced information and communications technologies by adequate long-term investment in the necessary infrastructure.

(f) To promote lower prices, broader consumer choice, and avoidance of anticompetitive conduct.

(g) To remove the barriers to open and competitive markets and promote fair product and price competition in a way that encourages greater efficiency, lower prices, and more consumer choice.

(h) To encourage fair treatment of consumers through provision of sufficient information for making informed choices, establishment of reasonable service quality standards, and establishment of processes for equitable resolution of billing and service problems.

SEC. 3. Section 884 is added to the Public Utilities Code, to read:

884. (a) It is the intent of the Legislature that any program administered by the commission that addresses the inequality of access
to advanced telecommunications services by providing those services to schools and libraries at a discounted price should also provide comparable discounts to a nonprofit community technology program.

(b) For the purpose of this section, “nonprofit community technology program” means a community-based nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and engages in diffusing technology into local communities and training local communities that have no access to, or have limited access to, the Internet and other technologies.

SEC. 4. Section 2 of this bill incorporates amendments to Section 709 of the Public Utilities Code proposed by both this bill and SB 1563. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2003, (2) each bill amends Section 709 of the Public Utilities Code, and (3) this bill is enacted after SB 1563, in which case Section 1 of this bill shall not become operative.

CHAPTER 309

An act to amend Section 650.02 of the Business and Professions Code, and to amend Section 139.31 of the Labor Code, relating to healing arts.

[Approved by Governor August 28, 2002. Filed with Secretary of State August 28, 2002.]

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

SECTION 1. Section 650.02 of the Business and Professions Code is amended to read:

650.02. The prohibition of Section 650.01 shall not apply to or restrict any of the following:

(a) A licensee may refer a patient for a good or service otherwise prohibited by subdivision (a) of Section 650.01 if the licensee’s regular practice is located where there is no alternative provider of the service within either 25 miles or 40 minutes traveling time, via the shortest route on a paved road. If an alternative provider commences furnishing the good or service for which a patient was referred pursuant to this subdivision, the licensee shall cease referrals under this subdivision within six months of the time at which the licensee knew or should have known that the alternative provider is furnishing the good or service. A licensee who refers to or seeks consultation from an organization in which the licensee has a financial interest under this subdivision shall disclose this interest to the patient or the patient’s parents or legal guardian in writing at the time of referral.
(b) A licensee, when the licensee or his or her immediate family has one or more of the following arrangements with another licensee, a person, or an entity, is not prohibited from referring a patient to the licensee, person, or entity because of the arrangement:

1. A loan between a licensee and the recipient of the referral, if the loan has commercially reasonable terms, bears interest at the prime rate or a higher rate that does not constitute usury, is adequately secured, and the loan terms are not affected by either party’s referral of any person or the volume of services provided by either party.

2. A lease of space or equipment between a licensee and the recipient of the referral, if the lease is written, has commercially reasonable terms, has a fixed periodic rent payment, has a term of one year or more, and the lease payments are not affected by either party’s referral of any person or the volume of services provided by either party.

3. Ownership of corporate investment securities, including shares, bonds, or other debt instruments that may be purchased on terms generally available to the public and that are traded on a licensed securities exchange or NASDAQ, do not base profit distributions or other transfers of value on the licensee’s referral of persons to the corporation, do not have a separate class or accounting for any persons or for any licensees who may refer persons to the corporation, and are in a corporation that had, at the end of the corporation’s most recent fiscal year, or on average during the previous three fiscal years, stockholder equity exceeding seventy-five million dollars ($75,000,000).

4. Ownership of shares in a regulated investment company as defined in Section 851(a) of the federal Internal Revenue Code, if the company had, at the end of the company’s most recent fiscal year, or on average during the previous three fiscal years, total assets exceeding seventy-five million dollars ($75,000,000).

5. A one-time sale or transfer of a practice or property or other financial interest between a licensee and the recipient of the referral if the sale or transfer is for commercially reasonable terms and the consideration is not affected by either party’s referral of any person or the volume of services provided by either party.

6. A personal services arrangement between a licensee or an immediate family member of the licensee and the recipient of the referral if the arrangement meets all of the following requirements:

   A. It is set out in writing and is signed by the parties.

   B. It specifies all of the services to be provided by the licensee or an immediate family member of the licensee.

   C. The aggregate services contracted for do not exceed those that are reasonable and necessary for the legitimate business purposes of the arrangement.
(D) A person who is referred by a licensee or an immediate family member of the licensee is informed in writing of the personal services arrangement that includes information on where a person may go to file a complaint against the licensee or the immediate family member of the licensee.

(E) The term of the arrangement is for at least one year.

(F) The compensation to be paid over the term of the arrangement is set in advance, does not exceed fair market value, and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties.

(G) The services to be performed under the arrangement do not involve the counseling or promotion of a business arrangement or other activity that violates any state or federal law.

(c) (1) A licensee may refer a person to a health facility, as defined in Section 1250 of the Health and Safety Code, or to any facility owned or leased by a health facility, if the recipient of the referral does not compensate the licensee for the patient referral, and any equipment lease arrangement between the licensee and the referral recipient complies with the requirements of paragraph (2) of subdivision (b).

(2) Nothing shall preclude this subdivision from applying to a licensee solely because the licensee has an ownership or leasehold interest in an entire health facility or an entity that owns or leases an entire health facility.

(3) A licensee may refer a person to a health facility for any service classified as an emergency under subdivision (a) or (b) of Section 1317.1 of the Health and Safety Code.

(4) A licensee may refer a person to any organization that owns or leases a health facility licensed pursuant to subdivision (a), (b), or (f) of Section 1250 of the Health and Safety Code if the licensee is not compensated for the patient referral, the licensee does not receive any payment from the recipient of the referral that is based or determined on the number or value of any patient referrals, and any equipment lease arrangement between the licensee and the referral recipient complies with the requirements of paragraph (2) of subdivision (b). For purposes of this paragraph, the ownership may be through stock or membership, and may be represented by a parent holding company that solely owns or controls both the health facility organization and the affiliated organization.

(d) A licensee may refer a person to a nonprofit corporation that provides physician services pursuant to subdivision (l) of Section 1206 of the Health and Safety Code if the nonprofit corporation is controlled through membership by one or more health facilities or health facility systems and the amount of compensation or other transfer of funds from the health facility or nonprofit corporation to the licensee is fixed
annually, except for adjustments caused by physicians joining or leaving the groups during the year, and is not based on the number of persons utilizing goods or services specified in Section 650.01.

(e) A licensee compensated or employed by a university may refer a person for a physician service, to any facility owned or operated by the university, or to another licensee employed by the university, provided that the facility or university does not compensate the referring licensee for the patient referral. In the case of a facility that is totally or partially owned by an entity other than the university, but that is staffed by university physicians, those physicians may not refer patients to the facility if the facility compensates the referring physicians for those referrals.

(f) The prohibition of Section 650.01 shall not apply to any service for a specific patient that is performed within, or goods that are supplied by, a licensee’s office, or the office of a group practice. Further, the provisions of Section 650.01 shall not alter, limit, or expand a licensee’s ability to deliver, or to direct or supervise the delivery of, in-office goods or services according to the laws, rules, and regulations governing his or her scope of practice.

(g) The prohibition of Section 650.01 shall not apply to cardiac rehabilitation services provided by a licensee or by a suitably trained individual under the direct or general supervision of a licensee, if the services are provided to patients meeting the criteria for Medicare reimbursement for the services.

(h) The prohibition of Section 650.01 shall not apply if a licensee is in the office of a group practice and refers a person for services or goods specified in Section 650.01 to a multispecialty clinic, as defined in subdivision (l) of Section 1206 of the Health and Safety Code.

(i) The prohibition of Section 650.01 shall not apply to health care services provided to an enrollee of a health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(j) The prohibition of Section 650.01 shall not apply to a request by a pathologist for clinical diagnostic laboratory tests and pathological examination services, a request by a radiologist for diagnostic radiology services, or a request by a radiation oncologist for radiation therapy if those services are furnished by, or under the supervision of, the pathologist, radiologist, or radiation oncologist pursuant to a consultation requested by another physician.

(k) This section shall not apply to referrals for services that are described in and covered by Sections 139.3 and 139.31 of the Labor Code.

(l) This section shall become operative on January 1, 1995.
SEC. 2. Section 139.31 of the Labor Code is amended to read:

139.31. The prohibition of Section 139.3 shall not apply to or restrict any of the following:

(a) A physician may refer a patient for a good or service otherwise prohibited by subdivision (a) of Section 139.3 if the physician’s regular practice is where there is no alternative provider of the service within either 25 miles or 40 minutes traveling time, via the shortest route on a paved road. A physician who refers to, or seeks consultation from, an organization in which the physician has a financial interest under this subdivision shall disclose this interest to the patient or the patient’s parents or legal guardian in writing at the time of referral.

(b) A physician who has one or more of the following arrangements with another physician, a person, or an entity, is not prohibited from referring a patient to the physician, person, or entity because of the arrangement:

(1) A loan between a physician and the recipient of the referral, if the loan has commercially reasonable terms, bears interest at the prime rate or a higher rate that does not constitute usury, is adequately secured, and the loan terms are not affected by either party’s referral of any person or the volume of services provided by either party.

(2) A lease of space or equipment between a physician and the recipient of the referral, if the lease is written, has commercially reasonable terms, has a fixed periodic rent payment, has a term of one year or more, and the lease payments are not affected by either party’s referral of any person or the volume of services provided by either party.

(3) A physician’s ownership of corporate investment securities, including shares, bonds, or other debt instruments that were purchased on terms that are available to the general public through a licensed securities exchange or NASDAQ, do not base profit distributions or other transfers of value on the physician’s referral of persons to the corporation, do not have a separate class or accounting for any persons or for any physicians who may refer persons to the corporation, and are in a corporation that had, at the end of the corporation’s most recent fiscal year, total gross assets exceeding one hundred million dollars ($100,000,000).

(4) A personal services arrangement between a physician or an immediate family member of the physician and the recipient of the referral if the arrangement meets all of the following requirements:

(A) It is set out in writing and is signed by the parties.

(B) It specifies all of the services to be provided by the physician or an immediate family member of the physician.

(C) The aggregate services contracted for do not exceed those that are reasonable and necessary for the legitimate business purposes of the arrangement.
(D) A written notice disclosing the existence of the personal services arrangement and including information on where a person may go to file a complaint against the licensee or the immediate family member of the licensee, is provided to the following persons at the time any services pursuant to the arrangement are first provided:

(i) An injured worker who is referred by a licensee or an immediate family member of the licensee.

(ii) The injured worker’s employer, if self-insured.

(iii) The injured worker’s employer’s insurer, if insured.

(iv) If the injured worker is known by the licensee or the recipient of the referral to be represented, the injured worker’s attorney.

(E) The term of the arrangement is for at least one year.

(F) The compensation to be paid over the term of the arrangement is set in advance, does not exceed fair market value, and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties, except that if the services provided pursuant to the arrangement include medical services provided under Division 4, compensation paid for the services shall be subject to the official medical fee schedule promulgated pursuant to Section 5307.1 or subject to any contract authorized by Section 5307.11.

(G) The services to be performed under the arrangement do not involve the counseling or promotion of a business arrangement or other activity that violates any state or federal law.

(c) (1) A physician may refer a person to a health facility as defined in Section 1250 of the Health and Safety Code, or to any facility owned or leased by a health facility, if the recipient of the referral does not compensate the physician for the patient referral, and any equipment lease arrangement between the physician and the referral recipient complies with the requirements of paragraph (2) of subdivision (b).

(2) Nothing shall preclude this subdivision from applying to a physician solely because the physician has an ownership or leasehold interest in an entire health facility or an entity that owns or leases an entire health facility.

(3) A physician may refer a person to a health facility for any service classified as an emergency under subdivision (a) or (b) of Section 1317.1 of the Health and Safety Code. For nonemergency outpatient diagnostic imaging services performed with equipment for which, when new, has a commercial retail price of four hundred thousand dollars ($400,000) or more, the referring physician shall obtain a service preauthorization from the insurer, or self-insured employer. Any oral authorization shall be memorialized in writing within five business days.

(d) A physician compensated or employed by a university may refer a person to any facility owned or operated by the university, or for a physician service, to another physician employed by the university,
provided that the facility or university does not compensate the referring physician for the patient referral. For nonemergency diagnostic imaging services performed with equipment that, when new, has a commercial retail price of four hundred thousand dollars ($400,000) or more, the referring physician shall obtain a service preauthorization from the insurer or self-insured employer. An oral authorization shall be memorialized in writing within five business days. In the case of a facility which is totally or partially owned by an entity other than the university, but which is staffed by university physicians, those physicians may not refer patients to the facility if the facility compensates the referring physician for those referrals.

(e) The prohibition of Section 139.3 shall not apply to any service for a specific patient that is performed within, or goods that are supplied by, a physician’s office, or the office of a group practice. Further, the provisions of Section 139.3 shall not alter, limit, or expand a physician’s ability to deliver, or to direct or supervise the delivery of, in-office goods or services according to the laws, rules, and regulations governing his or her scope of practice. With respect to diagnostic imaging services performed with equipment that, when new, had a commercial retail price of four hundred thousand dollars ($400,000) or more, or for physical therapy services, or for psychometric testing that exceeds the routine screening battery protocols, with a time limit of two to five hours, established by the Industrial Medical Council, the referring physician obtains a service preauthorization from the insurer or self-insured employer. Any oral authorization shall be memorialized in writing within five business days.

(f) The prohibition of Section 139.3 shall not apply where the physician is in a group practice as defined in Section 139.3 and refers a person for services specified in Section 139.3 to a multispecialty clinic, as defined in subdivision (l) of Section 1206 of the Health and Safety Code. For diagnostic imaging services performed with equipment that, when new, had a commercial retail price of four hundred thousand dollars ($400,000) or more, or physical therapy services, or psychometric testing that exceeds the routine screening battery protocols, with a time limit of two to five hours, established by the Industrial Medical Council, performed at the multispecialty facility, the referring physician shall obtain a service preauthorization from the insurer or self-insured employer. Any oral authorization shall be memorialized in writing within five business days.

(g) The requirement for preauthorization in Sections (c), (e), and (f) shall not apply to a patient for whom the physician or group accepts payment on a capitated risk basis.

(h) The prohibition of Section 139.3 shall not apply to any facility when used to provide health care services to an enrollee of a health care
service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

CHAPTER 310

An act to amend Section 721 of the Family Code, relating to community property.

[Approved by Governor August 28, 2002. Filed with Secretary of State August 28, 2002.]

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

SECTION 1. Section 721 of the Family Code is amended to read:

721. (a) Subject to subdivision (b), either husband or wife may enter into any transaction with the other, or with any other person, respecting property, which either might if unmarried.

(b) Except as provided in Sections 143, 144, 146, 16040, and 16047 of the Probate Code, in transactions between themselves, a husband and wife are subject to the general rules governing fiduciary relationships which control the actions of persons occupying confidential relations with each other. This confidential relationship imposes a duty of the highest good faith and fair dealing on each spouse, and neither shall take any unfair advantage of the other. This confidential relationship is a fiduciary relationship subject to the same rights and duties of nonmarital business partners, as provided in Sections 16403, 16404, and 16503 of the Corporations Code, including, but not limited to, the following:

1. Providing each spouse access at all times to any books kept regarding a transaction for the purposes of inspection and copying.

2. Rendering upon request, true and full information of all things affecting any transaction which concerns the community property. Nothing in this section is intended to impose a duty for either spouse to keep detailed books and records of community property transactions.

3. Accounting to the spouse, and holding as a trustee, any benefit or profit derived from any transaction by one spouse without the consent of the other spouse which concerns the community property.

SEC. 2. It is the intent of the Legislature in enacting this act to clarify that Section 721 of the Family Code provides that the fiduciary relationship between spouses includes all of the same rights and duties in the management of community property as the rights and duties of unmarried business partners managing partnership property, as provided in Sections 16403, 16404, and 16503 of the Corporations Code, and to
abrogate the ruling in In re Marriage of Duffy (2001) 91 Cal.App.4th 923, to the extent that it is in conflict with this clarification.

CHAPTER 311

An act to amend Sections 7071.11, 7125, and 7125.2 of, to add Sections 7125.3 and 7125.4 to, and to repeal and add Section 7065.01 of, the Business and Professions Code, relating to contractors.

[Approved by Governor August 30, 2002. Filed with Secretary of State September 3, 2002.]

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

SECTION 1. Section 7065.01 of the Business and Professions Code is repealed.

SEC. 2. Section 7065.01 is added to the Business and Professions Code, to read:

6065.01. Notwithstanding Section 7065, no trade examination shall be required of an applicant for the limited specialty license classification.

SEC. 3. Section 7071.11 of the Business and Professions Code is amended to read:

7071.11. (a) A copy of the complaint in a civil action commenced by a person claiming against a bond required by this article shall be served by registered or certified mail upon the registrar by the clerk of the court at the time the action is commenced and the registrar shall maintain a record, available for public inspection, of all actions so commenced. The aggregate liability of a surety on a claim for wages and fringe benefits brought against any bond required by this article, other than a bond required by Section 7071.8, shall not exceed the sum of four thousand dollars ($4,000). If any bond which may be required is insufficient to pay all claims in full, the sum of the bond shall be distributed to all claimants in proportion to the amount of their respective claims. Any action, other than an action to recover wages or fringe benefits, against a contractor’s bond or a bond of a qualifying individual filed by an active licensee shall be brought within two years after the expiration of the license period during which the act or omission occurred, or within two years of the date the license of the active licensee was inactivated, canceled, or revoked by the board, whichever first occurs. Any action, other than an action to recover wages or fringe benefits, against a disciplinary bond filed by an active licensee pursuant to Section 7071.8 shall be brought within two years after the expiration
of the license period during which the act or omission occurred, or within
two years of the date the license of the active licensee was inactivated,
canceled, or revoked by the board, or within two years after the last date
for which a disciplinary bond filed pursuant to Section 7071.8 was
required, whichever date is first. A claim to recover wages or fringe
benefits shall be brought within six months from the date that the wage
or fringe benefit delinquencies were discovered, but in no event shall a
civil action thereon be brought later than two years from the date the
wage or fringe benefit contributions were due.

(b) Whenever the surety makes payment on any claim against a bond
required by this article, whether or not payment is made through a court
action or otherwise, the surety shall, within 30 days of the payment,
provide notice to the registrar. The notice required by this subdivision
shall provide the following information by declaration on a form
prescribed by the registrar:

(1) The name and license number of the contractor.
(2) The surety bond number.
(3) The amount of payment.
(4) The statutory basis upon which the claim is made.
(5) The names of the person or persons to whom payments have been
made.
(6) Whether or not the payments were the result of a good faith action
by the surety.

The notice shall also clearly indicate whether or not the licensee filed
a protest in accordance with this section.

(c) Prior to the settlement of a claim through a good faith payment by
the surety, a licensee shall have not less than 15 days in which to provide
a written protest. This protest shall instruct the surety not to make
payment from the bond on the licensee’s account upon the specific
grounds that the claim is opposed by the licensee, and provide the surety
a specific and reasonable basis for the licensee’s opposition to payment.

(1) Whenever a licensee files a protest in accordance with this
subdivision, the board shall investigate the matter and file disciplinary
action as set forth under this chapter if there is evidence that the surety
has sustained a loss as the result of a good faith payment made for the
purpose of mitigating any damages incurred by any person or entity
covered under Section 7071.5.

(2) Any licensee that fails to file a protest as specified in this
subdivision shall have 90 days from the date of notification by the board
to submit proof of payment of the actual amount owed to the surety and,
if applicable, proof of payment of any judgement or admitted claim in
excess of the amount of the bond or, by operation of law, the license shall
be suspended at the end of the 90 days. A license suspension pursuant
to this subdivision shall be disclosed indefinitely as a failure to settle
outstanding final liabilities in violation of this chapter. The disclosure
specified by this subdivision shall also be applicable to all licenses
covered by the provisions of subdivision (d).

(d) No license may be renewed, reissued, or reinstated while any
judgment or admitted claim in excess of the amount of the bond remains
unsatisfied. Further, no license may be renewed, reissued, or reinstated
while any surety remains unreimbursed for any loss or expense sustained
on any bond issued for the licensee or for any entity of which any officer,
director, member, partner, or qualifying person was an officer, director,
member, partner, or qualifying person of the licensee while the licensee
was subject to suspension or disciplinary action under this section.

(e) The licensee may provide the board with a notarized copy of an
accord, reached with the surety to satisfy the debt in lieu of full payment.
By operation of law, failure to abide by the accord shall result in the
automatic suspension of any license to which this section applies. A
license that is suspended for failure to abide by the accord may only be
renewed or reinstated when proof of satisfaction of all debts is made.

(f) Legal fees may not be charged against the bond by the board.

(g) In any case in which a claim is filed against a deposit given in lieu
of a bond by any employee or by an employee organization on behalf of
an employee, concerning wages or fringe benefits based upon the
employee’s employment, claims for the nonpayment shall be filed with
the Labor Commissioner. The Labor Commissioner shall, pursuant to
the authority vested by Section 96.5 of the Labor Code, conduct hearings
to determine whether or not the wages or fringe benefits should be paid
to the complainant. Upon a finding by the commissioner that the wages
or fringe benefits should be paid to the complainant, the commissioner
shall notify the registrar of the findings. The registrar shall not make
payment from the deposit on the basis of findings by the commissioner
for a period of 10 days following determination of the findings. If, within
the period, the complainant or the contractor files written notice with the
registrar and the commissioner of an intention to seek judicial review of
the findings pursuant to Section 11523 of the Government Code, the
registrar shall not make payment, if an action is actually filed, except as
determined by the court. If, thereafter, no action is filed within 60 days
following determination of findings by the commissioner, the registrar
shall make payment from the deposit to the complainant.

(h) Any action, other than an action to recover wages or fringe
benefits, against a deposit given in lieu of a contractor’s bond or bond
of a qualifying individual filed by an active licensee shall be brought
within three years after the expiration of the license period during which
the act or omission occurred, or within three years after the date the
license was inactivated, canceled, or revoked by the board, whichever
first occurs. Any action, other than an action to recover wages or fringe
benefits, against a deposit given in lieu of a disciplinary bond filed by an active licensee pursuant to Section 7071.8 shall be brought within three years after the expiration of the license period during which the act or omission occurred, or within three years of the date the license of the active licensee was inactivated, canceled, or revoked by the board, or within three years after the last date for which a deposit given in lieu of a disciplinary bond filed pursuant to Section 7071.8 was required, whichever date is first. If the board is notified of a complaint relative to a claim against the deposit, the deposit shall not be released until the complaint has been adjudicated.

SEC. 4. Section 7125 of the Business and Professions Code is amended to read:

7125. (a) The board shall require as a condition precedent to the issuance, reinstatement, reactivation, renewal, or continued maintenance of a license, that the applicant or licensee have on file at all times a current and valid Certificate of Workers’ Compensation Insurance or Certification of Self-Insurance. A Certificate of Workers’ Compensation Insurance shall be issued and filed, electronically or otherwise, by one or more insurers duly licensed to write workers’ compensation insurance in this state. A Certification of Self-Insurance shall be issued and filed by the Director of Industrial Relations. If reciprocity conditions exist, as defined in Section 3600.5 of the Labor Code, the registrar shall require the information deemed necessary to assure compliance with this section.

(b) This section does not apply to an applicant or licensee who has no employees provided that he or she files a statement with the board on a form prescribed by the registrar prior to the issuance, reinstatement, reactivation, or continued maintenance of a license, certifying that he or she does not employ any person in any manner so as to become subject to the workers’ compensation laws of California or is not otherwise required to provide for workers’ compensation insurance coverage under California law.

(c) No certificate of workers’ compensation insurance, certification of self-insurance, or exemption-certificate is required of a holder of a license that has been inactivated on the official records of the board during the period the license is inactive.

(d) The insurer, including the State Compensation Insurance Fund, shall report to the registrar the following information for any policy required under this section: name, license number, policy number, dates that coverage is scheduled to commence and lapse, and cancellation date if applicable.

SEC. 5. Section 7125.2 of the Business and Professions Code is amended to read:
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7125.2. The failure of a licensee to obtain or maintain workers' compensation insurance coverage, if required under this chapter, shall result in the automatic suspension of the license by operation of law in accordance with the provisions of this section, but this suspension shall not affect, alter, or limit the status of the licensee as an employer for purposes of Section 3716 of the Labor Code.

(a) The license suspension imposed by this section is effective upon the earlier of either of the following:

(1) On the date that the relevant workers’ compensation insurance coverage lapses.

(2) On the date that workers’ compensation coverage is required to be obtained.

(b) A licensee who is subject to suspension under paragraph (1) of subdivision (a) shall be provided a notice by the registrar that includes all of the following:

(1) The reason for the license suspension and the effective date.

(2) A statement informing the licensee that a pending suspension will be posted to the license record for not more than 45 days prior to the posting of any license suspension periods required under this article.

(3) The procedures required to reinstate the license.

(c) Reinstatement may be made at any time following the suspension by showing proof of compliance as specified in Sections 7125 and 7125.1.

(d) In addition, with respect to an unlicensed individual acting in the capacity of a contractor who is not otherwise exempted from the provisions of this chapter, a citation may be issued by the registrar under Section 7028.7 for failure to comply with this article and to maintain workers’ compensation insurance. An opportunity for a hearing as specified in Section 7028.10 will be granted if requested within 15 working days after service of the citation.

SEC. 6. Section 7125.3 is added to the Business and Professions Code, to read:

7125.3. A contractor shall be considered duly licensed during all periods in which the registrar is required to accept the certificate prescribed by Section 7125, provided the licensee has otherwise complied with the provisions of this chapter.

SEC. 7. Section 7125.4 is added to the Business and Professions Code, to read:

7125.4. The filing of statement or exemption certificate prescribed by this article that is false, or the employment of a person subject to coverage under the workers’ compensation laws after the filing of an exemption certificate without first filing a Certificate of Workers’ Compensation Insurance or Certification of Self-Insurance in accordance with the provisions of this article, or the employment of a
person subject to coverage under the workers’ compensation laws without maintaining coverage for that person, constitutes cause for disciplinary action.

CHAPTER 312

An act to amend Sections 7085 and 7091 of, to add Section 7122.2 to, and to repeal Section 7085.8 of, the Business and Professions Code, relating to contractors.

[Approved by Governor August 30, 2002. Filed with Secretary of State September 3, 2002.]

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

SECTION 1. Section 7085 of the Business and Professions Code is amended to read:

7085. (a) After investigating any verified complaint alleging a violation of Section 7107, 7109, 7110, 7113, 7119, or 7120, and any complaint arising from a contract involving works of improvement as defined in Section 7151 and finding a possible violation, the registrar may, with the concurrence of both the licensee and the complainant, refer the alleged violation, and any dispute between the licensee and the complainant arising thereunder, to arbitration pursuant to this article, provided the registrar finds that:

(1) There is evidence that the complainant has suffered or is likely to suffer material damages as a result of a violation of Section 7107, 7109, 7110, 7113, 7119, or 7120, and any complaint arising from a contract involving works of improvement as defined in Section 7151.

(2) There are reasonable grounds for the registrar to believe that the public interest would be better served by arbitration than by disciplinary action.

(3) The licensee does not have a history of repeated or similar violations.

(4) The licensee was in good standing at the time of the alleged violation.

(5) The licensee does not have any outstanding disciplinary actions filed against him or her.

(6) The parties have not previously agreed to private arbitration of the dispute pursuant to contract or otherwise.

(7) The parties have been advised of the provisions of Section 2855 of the Civil Code.
For the purposes of paragraph (1), “material damages” means damages greater than seven thousand five hundred dollars ($7,500) and less than fifty thousand dollars ($50,000).

(b) In all cases in which a possible violation of the sections set forth in paragraph (1) of subdivision (a) exists and the contract price is equal to or less than seven thousand five hundred dollars ($7,500), or the demand for damages is equal to or less than seven thousand five hundred dollars ($7,500) regardless of the contract price, the complaint shall be referred to arbitration, utilizing the criteria set forth in paragraphs (2) to (6), inclusive, of subdivision (a).

SEC. 2. Section 7085.8 of the Business and Professions Code is repealed.

SEC. 3. Section 7091 of the Business and Professions Code is amended to read:

7091. (a) A complaint against a licensee alleging commission of any patent acts or omissions that may be grounds for legal action shall be filed in writing with the registrar within four years after the act or omission alleged as the ground for the disciplinary action. An accusation or citation against a licensee shall be filed or a referral to the arbitration program outlined in Section 7085 shall be referred within four years after the patent act or omission alleged as the ground for disciplinary action or arbitration or within 18 months from the date of the filing of the complaint with the registrar, whichever is later, except that with respect to an accusation alleging a violation of Section 7112, the accusation may be filed within two years after the discovery by the registrar or by the board of the alleged facts constituting the fraud or misrepresentation prohibited by the section.

(b) A complaint against a licensee alleging commission of any latent acts or omissions that may be grounds for legal action pursuant to subdivision (a) of Section 7109 regarding structural defects, as defined by regulation, shall be filed in writing with the registrar within 10 years after the act or omission alleged as the ground for the disciplinary action. An accusation and citation against a licensee shall be filed within 10 years after the latent act or omission alleged as the ground for disciplinary action or within 18 months from the date of the filing of the complaint with the registrar, whichever is later, except that with respect to an accusation alleging a violation of Section 7112, the accusation may be filed within two years after the discovery by the registrar or by the board of the alleged facts constituting the fraud or misrepresentation prohibited by Section 7112. As used in this section “latent act or omission” means an act or omission that is not apparent by reasonable inspection.

(c) An accusation regarding an alleged breach of an express, written warranty for a period in excess of the time periods specified in
subdivisions (a) and (b) issued by the contractor shall be filed within the duration of that warranty.

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

(e) Nothing in this section shall be construed to affect the liability of a surety or the period of limitations prescribed by law for the commencement of actions against a surety or cash deposit.

SEC. 4. Section 7122.2 is added to the Business and Professions Code, to read:

7122.2. Notwithstanding Section 7068.2 or any other provisions of this chapter, the disassociation of any qualifying partner, responsible managing officer, or responsible managing employee from a license that has been referred to arbitration pursuant to Section 7085 shall not relieve the qualifying partner, responsible managing officer, or responsible managing employee from responsibility for complying with the award rendered as a result of an arbitration referral. Section 7122.5 shall apply to any qualifying partner, responsible managing officer, or responsible managing employee of a licensee that fails to comply with an arbitration award once it is rendered.

CHAPTER 313

An act to amend Section 651 of the Business and Professions Code, relating to healing arts.

[Approved by Governor August 30, 2002. Filed with Secretary of State September 3, 2002.]

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

SECTION 1. Section 651 of the Business and Professions Code is amended to read:

651. (a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. A “public communication” as used in this section includes, but is not limited to, communication by means of mail, television, radio, motion
(b) A false, fraudulent, misleading, or deceptive statement, claim, or image includes a statement or claim that does any of the following:

1. Contains a misrepresentation of fact.

2. Is likely to mislead or deceive because of a failure to disclose material facts.

3. (A) Is intended or is likely to create false or unjustified expectations of favorable results, including the use of any photograph or other image that does not accurately depict the results of the procedure being advertised or that has been altered in any manner from the image of the actual subject depicted in the photograph or image.

   (B) Use of any photograph or other image of a model without clearly stating in a prominent location in easily readable type the fact that the photograph or image is of a model is a violation of subdivision (a). For purposes of this paragraph, a model is anyone other than an actual patient, who has undergone the procedure being advertised, of the licensee who is advertising for his or her services.

   (C) Use of any photograph or other image of an actual patient that depicts or purports to depict the results of any procedure, or presents “before” and “after” views of a patient, without specifying in a prominent location in easily readable type size what procedures were performed on that patient is a violation of subdivision (a). Any “before” and “after” views (i) shall be comparable in presentation so that the results are not distorted by favorable poses, lighting, or other features of presentation, and (ii) shall contain a statement that the same “before” and “after” results may not occur for all patients.

4. Relates to fees, other than a standard consultation fee or a range of fees for specific types of services, without fully and specifically disclosing all variables and other material factors.

5. Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

6. Makes a claim either of professional superiority or of performing services in a superior manner, unless that claim is relevant to the service being performed and can be substantiated with objective scientific evidence.

7. Makes a scientific claim that cannot be substantiated by reliable, peer reviewed, published scientific studies.

8. Includes any statement, endorsement, or testimonial that is likely to mislead or deceive because of a failure to disclose material facts.

(c) Any price advertisement shall be exact, without the use of phrases, including, but not limited to, “as low as,” “and up,” “lowest prices,” or words or phrases of similar import. Any advertisement that refers to
services, or costs for services, and that uses words of comparison shall be based on verifiable data substantiating the comparison. Any person so advertising shall be prepared to provide information sufficient to establish the accuracy of that comparison. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discount, premiums, gifts, or any statements of a similar nature. In connection with price advertising, the price for each product or service shall be clearly identifiable. The price advertised for products shall include charges for any related professional services, including dispensing and fitting services, unless the advertisement specifically and clearly indicates otherwise.

(d) Any person so licensed shall not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of, or in return for, professional publicity unless the fact of compensation is made known in that publicity.

(e) Any person so licensed may not use any professional card, professional announcement card, office sign, letterhead, telephone directory listing, medical list, medical directory listing, or a similar professional notice or device if it includes a statement or claim that is false, fraudulent, misleading, or deceptive within the meaning of subdivision (b).

(f) Any person so licensed who violates this section is guilty of a misdemeanor. A bona fide mistake of fact shall be a defense to this subdivision, but only to this subdivision.

(g) Any violation of this section by a person so licensed shall constitute good cause for revocation or suspension of his or her license or other disciplinary action.

(h) Advertising by any person so licensed may include the following:

(1) A statement of the name of the practitioner.

(2) A statement of addresses and telephone numbers of the offices maintained by the practitioner.

(3) A statement of office hours regularly maintained by the practitioner.

(4) A statement of languages, other than English, fluently spoken by the practitioner or a person in the practitioner’s office.

(5) (A) A statement that the practitioner is certified by a private or public board or agency or a statement that the practitioner limits his or her practice to specific fields.

(i) For the purposes of this section, a dentist licensed under Chapter 4 (commencing with Section 1600) may not hold himself or herself out as a specialist, or advertise membership in or specialty recognition by an accrediting organization, unless the practitioner has completed a specialty education program approved by the American Dental
Association and the Commission on Dental Accreditation, is eligible for examination by a national specialty board recognized by the American Dental Association, or is a diplomate of a national specialty board recognized by the American Dental Association.

(ii) A dentist licensed under Chapter 4 (commencing with Section 1600) shall not represent to the public or advertise accreditation either in a specialty area of practice or by a board not meeting the requirements of clause (i) unless the dentist has attained membership in or otherwise been credentialed by an accrediting organization that is recognized by the board as a bona fide organization for that area of dental practice. In order to be recognized by the board as a bona fide accrediting organization for a specific area of dental practice other than a specialty area of dentistry authorized under clause (i), the organization shall condition membership or credentialing of its members upon all of the following:

(I) Successful completion of a formal, full-time advanced education program that is affiliated with or sponsored by a university based dental school and is beyond the dental degree at a graduate or postgraduate level.

(II) Prior didactic training and clinical experience in the specific area of dentistry that is greater than that of other dentists.

(III) Successful completion of oral and written examinations based on psychometric principles.

(iii) Notwithstanding the requirements of clauses (i) and (ii), a dentist who lacks membership in or certification, diplomate status, other similar credentials, or completed advanced training approved as bona fide either by an American Dental Association recognized accrediting organization or by the board, may announce a practice emphasis in any other area of dental practice only if the dentist incorporates in capital letters or some other manner clearly distinguishable from the rest of the announcement, solicitation, or advertisement that he or she is a general dentist.

(iv) A statement of certification by a practitioner licensed under Chapter 7 (commencing with Section 3000) shall only include a statement that he or she is certified or eligible for certification by a private or public board or parent association recognized by that practitioner’s licensing board.

(B) A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she limits his or her practice to specific fields, but shall not include a statement that he or she is certified or eligible for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, unless that board or association is (i) an American Board of Medical Specialties member board, (ii) a board or association with equivalent requirements...
approved by that physician and surgeon’s licensing board, or (iii) a board
or association with an Accreditation Council for Graduate Medical
Education approved postgraduate training program that provides
complete training in that specialty or subspecialty. A physician and
surgeon licensed under Chapter 5 (commencing with Section 2000) by
the Medical Board of California who is certified by an organization other
than a board or association referred to in clause (i), (ii), or (iii) shall not
use the term “board certified” in reference to that certification, unless
the physician and surgeon is also licensed under Chapter 4 (commencing
with Section 1600) and the use of the term “board certified” in reference
to that certification is in accordance with subparagraph (A). A physician
and surgeon licensed under Chapter 5 (commencing with Section 2000)
by the Medical Board of California who is certified by a board or
association referred to in clause (i), (ii), or (iii) shall not use the term
“board certified” unless the full name of the certifying board is also used
and given comparable prominence with the term “board certified” in the
statement.

For purposes of this subparagraph, a “multidisciplinary board or
association” means an educational certifying body that has a
psychometrically valid testing process, as determined by the Medical
Board of California, for certifying medical doctors and other health care
professionals that is based on the applicant’s education, training, and
experience.

For purposes of the term “board certified,” as used in this
subparagraph, the terms “board” and “association” mean an
organization that is an American Board of Medical Specialties member
board, an organization with equivalent requirements approved by a
physician and surgeon’s licensing board, or an organization with an
Accreditation Council for Graduate Medical Education approved
postgraduate training program that provides complete training in a
specialty or subspecialty.

The Medical Board of California shall adopt regulations to establish
and collect a reasonable fee from each board or association applying for
recognition pursuant to this subparagraph. The fee shall not exceed the
cost of administering this subparagraph. Notwithstanding Section 2 of
Chapter 1660 of the Statutes of 1990, this subparagraph shall become
operative July 1, 1993. However, an administrative agency or
accrediting organization may take any action contemplated by this
subparagraph relating to the establishment or approval of specialist
requirements on and after January 1, 1991.

(C) A doctor of podiatric medicine licensed under Chapter 5
(commencing with Section 2000) by the Medical Board of California
may include a statement that he or she is certified or eligible or qualified
for certification by a private or public board or parent association,
including, but not limited to, a multidisciplinary board or association, if that board or association meets one of the following requirements: (i) is approved by the Council on Podiatric Medical Education, (ii) is a board or association with equivalent requirements approved by the California Board of Podiatric Medicine, or (iii) is a board or association with the Council on Podiatric Medical Education approved postgraduate training programs that provide training in podiatric medicine and podiatric surgery. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term “board certified” unless the full name of the certifying board is also used and given comparable prominence with the term “board certified” in the statement. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term “board certified” in reference to that certification.

For purposes of this subparagraph, a “multidisciplinary board or association” means an educational certifying body that has a psychometrically valid testing process, as determined by the California Board of Podiatric Medicine, for certifying doctors of podiatric medicine that is based on the applicant’s education, training, and experience. For purposes of the term “board certified,” as used in this subparagraph, the terms “board” and “association” mean an organization that is a Council on Podiatric Medical Education approved board, an organization with equivalent requirements approved by the California Board of Podiatric Medicine, or an organization with a Council on Podiatric Medical Education approved postgraduate training program that provides training in podiatric medicine and podiatric surgery.

The California Board of Podiatric Medicine shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph, to be deposited in the State Treasury in the Podiatry Fund, pursuant to Section 2499. The fee shall not exceed the cost of administering this subparagraph.

(6) A statement that the practitioner provides services under a specified private or public insurance plan or health care plan.

(7) A statement of names of schools and postgraduate clinical training programs from which the practitioner has graduated, together with the degrees received.

(8) A statement of publications authored by the practitioner.

(9) A statement of teaching positions currently or formerly held by the practitioner, together with pertinent dates.

(10) A statement of his or her affiliations with hospitals or clinics.
(11) A statement of the charges or fees for services or commodities offered by the practitioner.

(12) A statement that the practitioner regularly accepts installment payments of fees.

(13) Otherwise lawful images of a practitioner, his or her physical facilities, or of a commodity to be advertised.

(14) A statement of the manufacturer, designer, style, make, trade name, brand name, color, size, or type of commodities advertised.

(15) An advertisement of a registered dispensing optician may include statements in addition to those specified in paragraphs (1) to (14), inclusive, provided that any statement shall not violate subdivision (a), (b), (c), or (e) or any other section of this code.

(16) A statement, or statements, providing public health information encouraging preventative or corrective care.

(17) Any other item of factual information that is not false, fraudulent, misleading, or likely to deceive.

(i) Each of the healing arts boards and examining committees within Division 2 shall adopt appropriate regulations to enforce this section in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Each of the healing arts boards and committees and examining committees within Division 2 shall, by regulation, define those efficacious services to be advertised by businesses or professions under their jurisdiction for the purpose of determining whether advertisements are false or misleading. Until a definition for that service has been issued, no advertisement for that service shall be disseminated. However, if a definition of a service has not been issued by a board or committee within 120 days of receipt of a request from a licensee, all those holding the license may advertise the service. Those boards and committees shall adopt or modify regulations defining what services may be advertised, the manner in which defined services may be advertised, and restricting advertising that would promote the inappropriate or excessive use of health services or commodities. A board or committee shall not, by regulation, unreasonably prevent truthful, nondeceptive price or otherwise lawful forms of advertising of services or commodities, by either outright prohibition or imposition of onerous disclosure requirements. However, any member of a board or committee acting in good faith in the adoption or enforcement of any regulation shall be deemed to be acting as an agent of the state.

(j) The Attorney General shall commence legal proceedings in the appropriate forum to enjoin advertisements disseminated or about to be disseminated in violation of this section and seek other appropriate relief to enforce this section. Notwithstanding any other provision of law, the costs of enforcing this section to the respective licensing boards or
committees may be awarded against any licensee found to be in violation of any provision of this section. This shall not diminish the power of district attorneys, county counsels, or city attorneys pursuant to existing law to seek appropriate relief.

(k) A physician and surgeon or doctor of podiatric medicine licensed pursuant to Chapter 5 (commencing with Section 2000) by the Medical Board of California who knowingly and intentionally violates this section may be cited and assessed an administrative fine not to exceed ten thousand dollars ($10,000) per event. Section 125.9 shall govern the issuance of this citation and fine except that the fine limitations prescribed in paragraph (3) of subdivision (b) of Section 125.9 shall not apply to a fine under this subdivision.

SEC. 2. 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 314

An act to add Section 99162 to the Public Utilities Code, relating to transportation.

[Approved by Governor August 30, 2002. Filed with Secretary of State September 3, 2002.]

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

SECTION 1. Section 99162 is added to the Public Utilities Code, to read:

99162. Notwithstanding any other provision of law, one or more local agencies listed in subdivision (i) of Section 99602 may undertake a study or a joint study concerning the feasibility of extending the commuter rail or intercity rail service described in subdivision (c) of Section 99622 beyond the City of Davis to the City of Dixon.